

STATE OF CONNECTICUT  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

**ENVIRONMENTAL LAND USE  
RESTRICTION  
GUIDANCE DOCUMENT**



November 2009

Commissioner Amey Marrella

79 Elm Street, Hartford, CT 06106

[www.ct.gov/dep/remediation](http://www.ct.gov/dep/remediation)

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**ENVIRONMENTAL LAND USE RESTRICTION  
GUIDANCE DOCUMENT  
(Effective November 30, 2009)**

The Connecticut Department of Environmental Protection (CTDEP) has developed this guidance document to provide information regarding the preparation, submittal, approval, and post recording obligations for ELURs. This guidance instructs property owners, attorneys, environmental professionals, and licensed environmental professionals (LEPs) on how to prepare and record an Environmental Land Use Restriction (ELUR). The ELUR Factsheet is available on the CTDEP website and summarizes information regarding ELURs including the purpose of an ELUR, the authorizing statutes and regulations for ELURs, the types of ELURs, and describes who is eligible to record an ELUR. To assist with the preparation of ELURs, the CTDEP has prepared an ELUR Preparation Checklist which presents a list of items to consider when preparing an ELUR. This checklist is included as Appendix A to this document and is available on the CTDEP website.

**I. PUBLIC NOTICE**

If required by section 22a-133q-1(c) of the Regulations of Connecticut State Agencies (RCSA), a notice of intent to record an ELUR must be published in at least one newspaper of general circulation in the area affected by the proposed ELUR. Public notice is not required for an ELUR that will be solely used to restrict a property to industrial/commercial activity and the municipal zoning limits the parcel to such use. An ELUR cannot be approved until the 30-day public notice comment period is completed. A draft ELUR must be available at the time of the public notice so that copies of the draft ELUR can be sent to interested members of the public upon request.

**II. PREPARATION AND SUBMITTAL OF ELURS**

When submitting an ELUR to the Commissioner for review and approval, the owner of the property submits the information described below. In cases where an LEP prepares and/or approves the ELUR, the information described below is available or submitted to the LEP:

**A. The Declaration of Environmental Land Use Restriction (the Declaration)**

To assist with the preparation of the Declaration the CTDEP prepared sample Declarations of ELUR that should be used as templates. These templates are available on the ELUR Application Information page of the CTDEP website. There are two versions of the template that are available:

1. If the Commissioner will review and approve the ELUR, the proposed draft Declaration of ELUR must be prepared using the Form of ELUR presented in Appendix 1 to RCSA Section 22a-133q-1.
2. If a LEP will review and approve the ELUR, the proposed draft declaration of ELUR must be prepared using the Form of ELUR presented in Appendix 2 to RCSA Section 22a-133q-1.

**B. The Decision Document**

To assist with the preparation of the Decision Document, CTDEP prepared sample Decision Document language that should be used as templates. These templates are available on the ELUR Application Information page of the CTDEP website. The Decision Document must describe:

1. the location and type of pollutants present in soil or groundwater on or underlying the property or portion thereof which is the subject of the ELUR;
2. the provisions of the ELUR, including any limitations on the use of such property or portion thereof; and
3. the rationale for the ELUR, including an explanation of why such restriction is consistent with RCSA sections 22a-133k-1 through 22a-133k-3, inclusive.

The Decision Document also includes a summary of all comments received following publication of the public notice described above and a brief response to each comment.

### **C. Class A-2 Survey**

The Class A-2 Survey is a plan/exhibit of the property or portion thereof which is subject to the proposed ELUR that clearly depicts the Subject Areas described in the ELUR. The requirements for A-2 Surveys are presented in section 22a-133q-1 of the RCSA. To assist with the preparation of A-2 Surveys, the CTDEP has created an A-2 Survey Checklist which is included as Appendix B to this document and is also available on the CTDEP website. The A-2 Survey Checklist presents a list of items to consider when preparing an A-2 Survey for an ELUR. The CTDEP requests that the A-2 Survey be submitted both in a paper copy (large, plate size) and submitted in \*.jpeg electronic format, so that the ELUR can be easily added to the CTDEP geographic information database.

### **D. Certified Copy of Public Notice**

Public notice (if applicable) must be completed by the current property owner, prior to the approval of the ELUR. Usually a certified copy of the public notice as published is included with the Decision Document. However, the public notice may be included as an exhibit to the ELUR.

### **E. Municipal Zoning Information**

If public notice was not completed because (1) the sole purpose of the ELUR is to restrict the use of the property to industrial/commercial activities and (2) the municipal zoning already limits the use of the property to such use, then information that describes the municipal zone for the property needs to be submitted to confirm the zoning. It is necessary to include both the municipal zone for the property and a description of the zone of the property on the A-2 Survey.

### **F. Exhibit D: Description of Engineered Control (if applicable)**

This exhibit summarizes the as-built construction details for an engineered control at a Subject Area at the property. Usually, this Exhibit consists of a short written description of the engineered control and cross-section(s) that illustrate the as-built construction details of the engineered control. A copy of the CTDEP approval letter for the engineered control must also be submitted.

### **G. Interests in the Property Summary and Subordination Waiver Requests**

To ensure that the ELUR will not be superseded by existing interests on the title of a property, all interests in the land which affect the ELUR must be irrevocably subordinated to the ELUR. However, the Commissioner may waive the requirement to obtain subordination agreements for interests in the land that are so minor as to be unaffected by the ELUR.

It is recommended that any title issues are understood at the time when the remedial action plan is developed to identify recorded and unrecorded interests that may need to be subordinated to the ELUR. Obtaining subordination agreements or making arrangements to obtain such subordination agreements prior to the implementation of remedial actions will aid in the development of a remedial action plan and an ELUR that is not in conflict with easements and interests in the property.

The requests for any subordination waivers should be submitted with the ELUR. A waiver from the requirement to obtain a subordination agreement must be requested for any interests in the land (the entire property) that are not irrevocably subordinated to the ELUR. If no Subordination Waivers will be sought, a complete description of all of the interests in the Property should still be submitted to the CTDEP on the Interests in the Property Summary and Subordination Waiver Request Form.

The Interests in the Property Summary and Subordination Waiver Request Form is available on the CTDEP website and should be completed based on a title search for the entire property to be subject to the proposed ELUR. This form includes the following information:

- the identity of the current owner of the property;
- a complete description of all of the interests found on the land records for the entire property;
- a determination of whether an item is an interest in the land;
- the rationale of why a waiver from the requirement to obtain a subordination agreement (waiver) is or is not appropriate for every interest in the land;
- copies of the land records (deeds and maps) that describe both the nature and location of such interests; and
- a request for any waivers.

## **H. Signatory Responsibility**

The Signatory Responsibility Form needs be used to indicate that the signatory for the Grantor of the ELUR is the owner of the land or has been duly authorized by the entity which owns the land to enter the ELUR and to convey an interest in land on behalf of the Grantor. This form is provided on the ELUR Application Information page of the CTDEP website.

## **III. OPTIONAL ELUR APPLICATION INFORMATION**

### **A. Preliminary Certificate of Title**

This document may be submitted with the proposed ELUR to expedite CTDEP review of the ELUR and lists all of the interests in the property for which the ELUR is proposed. This document is prepared by an attorney and notes the identity of the owner and includes information regarding easements, encumbrances, claims and liens that are found on the municipal land records for the property. Although optional, this information aids and may speed CTDEP staff review of subordination agreement waivers.

### **B. Licensed Environmental Professional Statement**

An optional Licensed Environmental Professional Statement Regarding the Contents of the Decision Document may be submitted with the proposed ELUR to expedite the CTDEP review of the ELUR. This statement indicates that the information provided in the Decision Document is accurate and complete, appropriate and representative of site conditions. The form for this LEP statement is provided on the ELUR Application Information page of the CTDEP website.

## **IV. SUBMITTAL REQUIREMENTS FOR ELECTRONIC COPIES OF DOCUMENTS**

In order to expedite the CTDEP's review and comment of ELURs, the following documents need to be submitted in both paper and electronic form. The requirements for electronic submittals are summarized below:

- Electronic copy of the ELUR Declaration saved in Microsoft® Word saved on a CD-R compact disc readable with Windows.®<sup>2</sup> This document must not be password protected.
- Electronic copy of the ELUR Decision Document, Exhibit B saved in Microsoft Word® saved on a CD-R readable with Windows.®<sup>2</sup> This document must not be password protected.
- Electronic copy of A-2 Survey, Exhibit C in saved in a JPEG file saved on a CD-R compact disc readable with Windows.®<sup>2</sup>
- Electronic copy of the Description of the Engineered Control Exhibit D, in saved in a JPEG file saved on a CD-R compact disc readable with Windows®<sup>2</sup>, if applicable.<sup>2</sup> This document must not be password protected.

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## **V. CTDEP REVIEW AND APPROVAL OF ELURS**

### **A. Administrative Review**

The initial step in the CTDEP review is an administrative review by a processing technician to determine if the ELUR application includes all of the documents needed for the technical review (items in Part II A - H above and the electronic submittals described above). The ELUR Checklist (Appendix A) also presents a list of the items that makes up a complete ELUR. If the ELUR application is not administratively complete, a Notice of Administrative Deficiency (NOAD) will be issued by the CTDEP. The NOAD will provide a list of the information that was missing from the ELUR application and specify a time period, usually 60 days, for the applicant to submit the information. If the information is not submitted to the CTDEP within the timeframe specified in the NOAD, the CTDEP will consider the ELUR application to be withdrawn and a new ELUR application will have to be submitted. When the ELUR application is administratively complete, a letter will be sent to the owner that the ELUR was administratively complete, and the ELUR documents will be assigned to CTDEP analyst for technical review.

### **B. Technical Review**

The analyst will review the ELUR and, if necessary, will provide written comments on the ELUR application and a timeframe for the owner to respond to any such comments (usually 60 days). If the responses to CTDEP comments are not submitted to the CTDEP within the timeframe specified or are unsatisfactory, the CTDEP may issue a decision to disapprove the ELUR based on the existing application materials.

When all CTDEP Remediation Division comments have been satisfactorily addressed and the Remediation Division has determined that (1) the proposed ELUR is consistent with the purposes and requirements of CGS sections 22a-133n to 22a-133r, inclusive, and that (2) the proposed ELUR will effectively protect public health and the environment from the hazards of pollution, the CTDEP will notify the owner that the Division's review is complete and that the owner of the property should sign the ELUR and return the signed ELUR to CTDEP for final review and signature by the Commissioner or his/her designee. The owner will have sixty (60) days to submit a signed ELUR to CTDEP for the Commissioner's signature. If the ELUR signed by the owner is not submitted to the CTDEP within the timeframe specified and a schedule extension is

not requested and acknowledged by the CTDEP, the CTDEP will consider the ELUR to be withdrawn.

## **VI. POST-RECORDING OBLIGATIONS**

Within seven days of receipt of a fully executed ELUR, the property owner must:

1. Simultaneously record (1) the approved ELUR and (2) documents which demonstrate that each person holding an interest in the property or any part thereof, has irrevocably subordinated such interests to the ELUR on the land records of the City or Town where the property is located; and
2. Submit to the Commissioner a Certificate of Title (COT) which certifies that each holder of an interest in the property subject to the ELUR has irrevocably subordinated such interest to the ELUR or the Commissioner has waived the requirement for interests that are so minor as to not affect the ELUR. Please note that such a COT must also be submitted for ELURs signed by a LEP.

In accordance with RCSA Section 22a-133q-1(j), after an ELUR has been recorded, the owner of the property shall send by certified mail, return receipt requested, a copy of the ELUR to the following individuals:

- the chief administrative officer of the City or Town where the property is located;
- the chairman of the municipal planning, zoning, or planning and zoning commission;
- the local Director of Health; and
- any person who submitted comments on the ELUR.

The Grantee should submit copies of such letters to the CTDEP within 30 days of recording the ELUR. The original ELUR documents need to be returned to the CTDEP after recording by the Town or Municipality.

The CTDEP will not consider an ELUR to be complete until an appropriate COT and copies of the mailed notices of the recording of the ELUR (mailed notices) are received by the CTDEP. The CTDEP will review the COT and may issue written comments. The CTDEP comments will specify a timeframe for the owner to respond to the comments. If responses to CTDEP comments are not submitted to the CTDEP within the schedule specified, the CTDEP may issue a decision to approve or disapprove the COT based on the existing materials. A disapproval of the COT or a failure to send a copy of the ELUR as referenced above, may mean that the ELUR is not complete, and the specific provisions of the Remediation Standard Regulations Sections 22a-133q-1 to 22a-133q-3 that require an ELUR are not available for the cleanup of the property until such time a complete COT is received by the CTDEP. Upon receipt of a complete COT, the CTDEP will issue a letter of receipt and administrative completeness for the COT.

## **VII. LEP APPROVAL OF ENVIRONMENTAL LAND USE RESTRICTIONS**

A LEP may only approve ELURs for a property remediated pursuant to CGS section 22a-133y, while all other ELURs must be submitted to the Commissioner for review and approval. An ELUR signed by a LEP is a special circumstance where the LEP is acting on behalf of the Commissioner. In accordance with CGS section 22a-133o, the LEP may approve an ELUR only if it will effectively protect public health and the environment from the hazards of pollution and is consistent with the purposes and requirements of CGS sections 22a-133n to 22a-133r. LEPs must exercise their fiduciary responsibilities in accordance with section 22a-133v-1 et.seq. of the RCSA in this and all other circumstances.

Only the Commissioner may grant a waiver from the requirement to obtain subordination agreement as described in item 7 above. In addition, a COT and copies of mailed notices sent pursuant to section 22a-133q-1(j) of the RCSA must be submitted to CTDEP for all ELURs, even those signed by a LEP under CGS section 22a-133y. The CTDEP will review the COT and notices and may issue comments as described above. Upon receipt of a complete COT, the CTDEP will issue a letter of receipt and administrative completeness for the COT.

To provide LEPs with comments on ELURs they prepared and to be recorded under CGS section 22a-133y, upon the written request of the LEP, the CTDEP is willing to review draft ELUR documents that will be approved by a LEP. Please contact CTDEP for assistance.

**APPENDIX A**  
**ELUR PREPARATION CHECKLIST**

# Appendix A

## Environmental Land Use Restriction Preparation Checklist

**Site Name:**

**Address:**

**Town:**

**Prepared by:**

**Date:**

This form is to be submitted to CTDEP with the proposed ELUR. The check list is intended to present a list of items to consider when preparing an ELUR and may not be an all-inclusive list. In cases when an ELUR is approved by a Licensed Environmental Professional (LEP) pursuant to section 22a-133y of the Regulations of Connecticut State Agencies (RCSA), this form should also be used by the LEP and party preparing the ELUR. Check all boxes that are applicable. Items must either be checked or marked as not applicable (N/A), as indicated.

The Remediation Standard Regulations (RSRs), sections 22a-133k-1 to 22a-133k-3 of the RCSA, must be applicable to a property in order for an ELUR to be signed by the Commissioner or a LEP. If the RSRs do not apply, do not submit an ELUR for the Commissioner's or LEP's approval.

The property is involved in the following regulatory programs:

### **ELUR Approved by CTDEP**

<input type="checkbox"/> Voluntary Remediation Program under CGS section 22a-133x
<input type="checkbox"/> Resource Conservation and Recovery Act Corrective (RCRA) Action Program
<input type="checkbox"/> State or Federal Superfund Program
<input type="checkbox"/> Final Administrative or Consent Order issued by the CTDEP or final stipulated judgment which requires investigation and remediation of hazardous wastes or substances to the satisfaction of the Commissioner or the RSRs
<input type="checkbox"/> Other CTDEP Program, [specify program] which requires investigation and remediation of hazardous wastes or substances to the satisfaction of the Commissioner or the RSRs

### **ELUR Signed by LEP**

<input type="checkbox"/> Voluntary Remediation Program under CGS section 22a-133y – the site is enrolled in CGS section 22a-133y and the ELUR will be signed by a LEP
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## **Administrative Review**

Review the ELUR to make sure all of the following information is included:

<input type="checkbox"/> Transmittal Form
<input type="checkbox"/> Declaration (using the current version of the template)
<input type="checkbox"/> Exhibit A: Property Metes and Bounds Description
<input type="checkbox"/> Exhibit B: Decision Document (using the current version of the template)
<input type="checkbox"/> Certified Copy of the Public Notice included with Decision Document
<input type="checkbox"/> N/A
<input type="checkbox"/> If Public Notice was not required, municipal zoning information for property is noted on the Class A-2 Survey and a description of the property zoning from the town is included
<input type="checkbox"/> N/A
<input type="checkbox"/> Exhibit C: Class A-2 Survey
<input type="checkbox"/> Exhibit D: Description of Engineered Control and a copy of CTDEP approval letter
<input type="checkbox"/> N/A (no engineered control proposed)
<input type="checkbox"/> Interests in the Land Summary and Subordination Agreement Waiver Request Form <ul style="list-style-type: none"><li><input type="checkbox"/> Copies deeds and maps for Subordination Agreement Waiver Requests</li><li><input type="checkbox"/> Ownership information provided to prove the Grantor is the current owner</li></ul>
<input type="checkbox"/> Signatory Responsibility Form showing Grantor is duly authorized
<input type="checkbox"/> Preliminary Certificate of Title (optional)
<input type="checkbox"/> Optional Statement by a Licensed Environmental Professional Regarding the Context of the Decision Document Form
<input type="checkbox"/> Electronic copies of the following documents are included: <ul style="list-style-type: none"><li>• Electronic copy of the ELUR Declaration saved in Microsoft® Word saved on a CD-R compact disc readable with Windows®<sup>2</sup></li><li>• Electronic copy of the ELUR Decision Document, Exhibit B saved in Microsoft Word® saved on a CD-R readable with Windows®<sup>2</sup></li><li>• Electronic copy of A-2 Survey, Exhibit C in saved in a JPEG file saved on a CD-R compact disc readable with Windows®<sup>2</sup></li><li>• Electronic copy of the Description of the Engineered Control Exhibit D, in saved in a JPEG file saved on a CD-R compact disc readable with Windows®<sup>2</sup>, if applicable<sup>2</sup></li></ul>

Note: Microsoft and Windows are either registered trademarks or trademarks of Microsoft Corporation in the United States and/or other countries.

## Technical Review

<input type="checkbox"/> Headers are included on the ELUR documents: <p style="margin-left: 40px;">Declaration of Environmental Land Use Restriction and Grant of Easement,          [Site Name],          [Site Address, Town, CT]</p>
<input type="checkbox"/> The address provided in the header is the same as the address provided in Paragraph two (the first "Whereas" of the Declaration)
<input type="checkbox"/> Developed an ELUR Review Chart to ensure consistency in the ELUR (refer to the example below)
<input type="checkbox"/> The proposed ELUR restrictions are appropriate for the provisions in the RSRs that are used to establish compliance. (The situations where an ELUR can be used are specified in the RSRs, as described in the ELUR Fact Sheet).
<input type="checkbox"/> The restrictions are consistent in the Declaration, Decision Document, and A-2 Survey.
<input type="checkbox"/> The proposed ELUR restrictions reflect current site conditions (e.g., the soil that exceeds the direct exposure criteria has been rendered inaccessible.)

### Example Review Chart

A review chart can be used to cross-check the Declaration and Decision Document to determine if the correct restrictions are included and the documents are consistent. [Checklists that are submitted to CTDEP should not contain mistakes. The mistakes provided below are provided for illustrative purposes only.]

Purpose(s)	Restriction(s)	Decision Document	Comments/Mistakes
<b>Example #1</b>  Subject Area A: humans not exposed to soils polluted with substances in concentrations exceeding the direct exposure criteria	Soil located more than 2 feet below grade or below the concrete slab of the building shall not be exposed as result of excavation, demolition or other activities.  The concrete building slab, which is in the Subject Area, shall not be disturbed in any manner by activities such as demolition, excavation or other intrusive activities.  <b>[Mistake found] No use of groundwater for drinking or other domestic purposes [see comments]</b>	The polluted soil is located more than four feet beneath the ground surface or beneath an existing building.  The concrete building slab is not disturbed in any manner.  <b>[Mistake found] Pavement to be maintained in good condition [see comments, mistake found].</b>	<b>[Mistake found]</b> Pavement maintenance paragraph in Decision Document is not needed, because pavement is not being used to manage risk/exposure at the site. The reference to pavement in the Decision Document will not be included.  <b>[Mistake found]</b> Groundwater use restriction not mentioned in purpose or decision document. So, cannot include it unless a variance due to technical impracticability of groundwater remediation is approved. Therefore, a groundwater use restriction will not be included in the Declaration.

### Declaration Document

<input type="checkbox"/> The date in paragraph one is blank. (This date is inserted into the paragraph when the ELUR is signed by the last party to sign.)
<input type="checkbox"/> The name of the Grantor is included in paragraph 1.
<input type="checkbox"/> The name of the Grantor is the same as the name of the property owner provided in the "Interests in the Land and Subordination Waiver Request Form."
<input type="checkbox"/> The address, block, and lot information is included in paragraph two (the first "Whereas").
<input type="checkbox"/> The templates were used and were not changed except to correct grammatical issues such as subject/verb agreement.
<input type="checkbox"/> The term "Subject Area" is used.
<input type="checkbox"/> The correct purposes and restrictions are included in paragraphs 1 and 2. Compare to the ELUR templates to determine if the correct language is inserted.
<input type="checkbox"/> The paragraphs for the different types of restrictions are not combined, except as provided for in the templates.
<input type="checkbox"/> N/A
<input type="checkbox"/> If soil is rendered inaccessible or below an engineered control the depth soil disturbance/exposure is limited is clearly defined.
<input type="checkbox"/> N/A
<input type="checkbox"/> If an industrial/commercial use restriction is included, the Subject Area is property-wide.
<input type="checkbox"/> N/A
<input type="checkbox"/> The Declaration of ELUR includes provisions to release the ELUR in case of an emergency. Otherwise, clauses indicating self-implementing release options from the ELUR are not included. Only the Commissioner can grant a release from the ELUR.
<input type="checkbox"/> If there are provisions for an engineered control included in the ELUR, Paragraph 6. iv. is included.
<input type="checkbox"/> N/A

### Signature Page(s) of Declaration

<input type="checkbox"/> The name and title of the duly authorized representative of the Grantor is typed or printed in the signature block for the Grantor on the signature page.
<input type="checkbox"/> Spaces for the printed or typed names of the witnesses are provided below the witnesses' signature lines.
<input type="checkbox"/> The signature for the Grantor will be witnessed by at least two witness and notarized.
<input type="checkbox"/> The signature block for the Grantor includes a space for a date to be inserted.
<input type="checkbox"/> The CTDEP signature block for the Grantee is not witnessed or notarized, so should not contain witness/notary language.

**Signature Page(s) of Declaration (cont'd)**

<input type="checkbox"/> If the ELUR is signed by a LEP under CGS section 22a-133y, the signature for the LEP is witnessed by at least two witnesses and notarized. <input type="checkbox"/> The printed or typed name of the LEP is provided below the signature for the LEP. <input type="checkbox"/> The signature block for the LEP includes a space for the date to be inserted.
<input type="checkbox"/> N/A

**Exhibit A: Property Metes and Bounds Description**

<input type="checkbox"/> Exhibit A: The metes and bounds property description matches the metes and bounds on the A-2 Survey (Exhibit C)
<input type="checkbox"/> Exhibit A and the A-2 Survey do not match and any discrepancy is explained, including whether the discrepancy is significant or not, in a note on Exhibit C.

**Exhibit B: Decision Document**

<input type="checkbox"/> The name of the Grantor is the same as the name of the Grantor included in paragraph one of the Declaration.
<input type="checkbox"/> The address of the property is the same as the address included in paragraph two (first "Whereas" of the Declaration).
<input type="checkbox"/> The term "Subject Area" is used.
<input type="checkbox"/> The word "Property" is used. (The word "Site" is not used.)
<input type="checkbox"/> The paragraphs for the different types of restrictions are not combined.
<input type="checkbox"/> The changes to the templates were limited to the bracketed portions indicated in the template documents and to correct grammatical issues such as subject/verb agreement.
<input type="checkbox"/> Any tables or attachments referenced in the Decision Document are attached.
<input type="checkbox"/> Public notice meets requirements of RCSA 22a-133q-1: <input type="checkbox"/> Published in at least one newspaper of general circulation in the area affected by the proposed ELUR <input type="checkbox"/> Includes the name and address of owner <input type="checkbox"/> Includes the address of the parcel or a brief description of its location <input type="checkbox"/> Includes a brief description of the purpose of the proposed ELUR <input type="checkbox"/> Includes the name and address of an individual from whom interested person may obtain a copy of the proposed ELUR <input type="checkbox"/> Includes a statement that public comments on the ELUR may be submitted to the Commissioner of DEP in care of the project manager
<input type="checkbox"/> A summary of all public comments received and a brief response to each comment is included OR
<input type="checkbox"/> A statement that states that no public comments were received is included
<input type="checkbox"/> N/A

**Signature Page for Decision Document**

<input type="checkbox"/> The CTDEP signature for the Grantee is not witnessed or notarized.
<input type="checkbox"/> If the ELUR is signed by a LEP under CGS section 22a-133y, the signature for the LEP is witnessed by at least two witnesses and notarized. <input type="checkbox"/> The printed or typed name of the LEP is provided below the signature for the LEP. <input type="checkbox"/> The signature block for the LEP includes a space for the date to be inserted.
<input type="checkbox"/> N/A

**Exhibit C: A-2 Survey**

<input type="checkbox"/> A-2 Survey was reviewed using A-2 Survey Checklist and a copy of the checklist is attached.
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**Exhibit D: Description of Engineered Control (if engineered control proposed)**

<input type="checkbox"/> A paragraph that describes the construction of the engineered control is included
<input type="checkbox"/> A cross-section of the engineered control is included
<input type="checkbox"/> N/A

**Interests in the Property Summary/ Subordination Agreement Waiver Request**

**Recorded Interests/Easements**

<input type="checkbox"/> The description of the interests in the Interests in the Land Summary matches the description in the land records of the interests
<input type="checkbox"/> The interests for which waivers are requested do not affect the ELUR: <input type="checkbox"/> Interest or easement is outside of subject areas <input type="checkbox"/> Interest does not grant rights to the easement holder which conflict with the restrictions of the ELUR
<input type="checkbox"/> No interests or easements were found.

**Potential Unrecorded Interests/Easements**

<input type="checkbox"/> The A-2 survey information was cross-checked with the Interests in the Land Summary to determine if there are any potential unrecorded easements: <ol style="list-style-type: none"><li><input type="checkbox"/> Potential unrecorded easements are/could be present and they do not affect the purpose of the ELUR. This is because the interest or easement is outside of Subject Areas or the unrecorded easement does not affect the purpose of the ELUR.</li><li><input type="checkbox"/> Potential unrecorded easements are/could be present and affect the purpose of the ELUR and the interest(s) will be subordinated to the ELUR.</li><li><input type="checkbox"/> No potential interests or easements were found.</li></ol>
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**APPENDIX B**  
**A-2 SURVEY CHECKLIST**

## Appendix B Environmental Land Use Restriction Class A-2 Survey Checklist

**Site Name:**

**Site Address:**

**Town:**

**Prepared by:**

**Date of Map:**

**Submittal Date:**

CTDEP suggests that this form is submitted with the draft ELUR. This check list is intended to present a list of items to consider when preparing or reviewing a Class A-2 Survey and may not be an all-inclusive list. In cases when an ELUR is approved by a LEP pursuant to Connecticut General Statutes (CGS) section 22a-133y, this form should also be used by the LEP and party preparing the ELUR. The requirements for A-2 Surveys are described in 22a-133q-1(a) of the Regulations of Connecticut State Agencies (RCSA). This checklist does not supersede these requirements. Check all boxes that are applicable. Items must be either be checked or marked as not applicable (N/A), as indicated.

<input type="checkbox"/>	The survey title includes, "Exhibit C: Declaration of Environmental Land Use Restriction and Grant of Easement, [Name and Address of Site]" or "[Name and Address of Site] Easement to be Granted to the Declaration of Environmental Land Use Restriction and Grant of Easement, Exhibit C."
<input type="checkbox"/>	The name of the owner provided on the survey is the same as the name of the Grantor included in paragraph one of the Declaration.
<input type="checkbox"/>	The address of the property is the same as the address included in paragraph two, (first "Whereas" of the Declaration).
<input type="checkbox"/>	The survey includes the embossed stamp and signature of a land surveyor currently licensed in the State of Connecticut.
<input type="checkbox"/>	The survey provided is an A-2 level Survey or better.
<input type="checkbox"/>	The survey is a first survey, independent resurvey, or dependent resurvey which conforms to Sections 20-300b-1 to 20-300b-20 of the RCSA.
<input type="checkbox"/>	The survey notes do not depict or note any approximate boundaries, such as boundary line agreement problems that may result in approximate boundaries of the property or Subject Area(s).
<input type="checkbox"/>	The survey notes do not recommend further work and or investigation.
<input type="checkbox"/>	The sizes and shapes of the Subject Area(s) are easy to find in the field at the site without a surveyor, are tied into permanent features at the site, and are of practical size.
<input type="checkbox"/>	All interests and easements listed in the Interests in the Land Summary and Subordination Waiver Request Form are shown on the A-2 Survey.
<input type="checkbox"/>	N/A [No interests or easements exist.]
<input type="checkbox"/>	The A-2 survey was reviewed for potential unrecorded easements. If any are noted, these must be included and considered during the evaluation of the Interests in the Land Summary.
<input type="checkbox"/>	N/A [No potential unrecorded easements exist.]

**The A-2 Survey shows:**

<input type="checkbox"/>	Vicinity map showing the property surveyed in reference to nearby highway(s) or major street intersection(s).
<input type="checkbox"/>	Boundaries of the property by course and distance, together with the metes and bounds description corresponding to such survey.
<input type="checkbox"/>	Approximate latitude and longitude of the center of the property plotted on the survey, in decimal degrees, referred to the North American Datum of 1983 with an accuracy of less than 5 meters.
<input type="checkbox"/>	Locations of the portion(s) of the parcel subject to the proposed ELUR (Subject Area(s)) are clearly identified and labeled as "ELUR Subject Area A", "ELUR Subject Area B", etc.
<input type="checkbox"/>	Optional monumentation used to mark the extent of the Subject Area(s) conforming to section 20-300b-14 of the RCSA. The locations and types of the monuments are identified.
<input type="checkbox"/>	N/A
<input type="checkbox"/>	Location of all improvements, including but not limited to: buildings, parking structures, parking areas, sidewalks, billboards, loading docks, and sheds.
<input type="checkbox"/>	Location and type(s) of impervious surfaces at the site, including but not limited to: asphalt, concrete, and bituminous concrete surfaces.
<input type="checkbox"/>	Location and type(s) of pervious surfaces at the site, including but not limited to: grass, landscaped areas, fields, wooded areas, and any other undeveloped areas.
<input type="checkbox"/>	Location and width of all easements, utility lines, and rights of way in reference to the book and page number on the municipal land records for granting the same
<input type="checkbox"/>	Location of utilities (representative examples of which are shown below) existing on or serving the surveyed property as determined by: <ul style="list-style-type: none"> <li><input type="checkbox"/> (a) Observed evidence</li> <li><input type="checkbox"/> (b) Observed evidence together with evidence from plans obtained from utility companies or provided by client, and markings by utility companies and other appropriate sources (with reference as to the source of information) <ul style="list-style-type: none"> <li>• railroad tracks and sidings;</li> <li>• manholes, catch basins, valve vaults or other surface indications of subterranean uses;</li> <li>• wires and cables (including their function, if readily identifiable) crossing the surveyed premises, all poles on or within ten feet of the surveyed premises, and the dimensions of all crossmembers or overhangs affecting the surveyed premises; and</li> <li>• utility company installations on the surveyed premises.</li> </ul> </li> </ul>
<input type="checkbox"/>	Indication of access to a public way on land such as curb cuts and driveways, and to and from waters adjoining the surveyed tract, such as boat slips, launches, piers and docks..
<input type="checkbox"/>	Any changes in street right of way lines either completed or proposed, and available from the controlling jurisdiction. Observable evidence of recent street or sidewalk construction or repairs.
<input type="checkbox"/>	Location of all encroachments and restrictions affecting the property.
<input type="checkbox"/>	N/A [No encroachments or restrictions exist.]
<input type="checkbox"/>	Location of any evidence of use that may indicate a potential unrecorded or prescriptive easement.
<input type="checkbox"/>	N/A [No evidence exists.]
<input type="checkbox"/>	Municipal zone for the property, for example R-1 zone.
<input type="checkbox"/>	Names of adjoining owners of platted lands.

**(continued)**

The surveyor shall (a) discuss the ramifications of the following methodologies (e.g. the potential accuracy and completeness of the data gathered thereby) with the title company, lender and client prior to the performance of the survey and, (b) place a note on the face of the survey explaining the source, date, relative accuracy and other relevant qualifications of any such data.

Rectified orthophotography, photogrammetric mapping, laser scanning and other similar products, tools or technologies may be utilized as the basis for the location of certain features (excluding boundaries) where ground measurements are not otherwise necessary to locate those features to an appropriate and acceptable accuracy relative to a nearby boundary.

N/A

Observable evidence of earth moving work, building construction or building additions within recent months.

Observable evidence of site use as a solid waste dump, sump or sanitary landfill.