



**TESTIMONY
CONNECTICUT WATER WORKS ASSOCIATION, INC.
BEFORE THE
PUBLIC HEALTH COMMITTEE
FEBRUARY 11, 2009**

RE: HB-5255, AN ACT CONCERNING WATERSHED LANDS

CWWA supports the overall *intent of HB-5255*, which is aimed at protecting watershed lands. However, given the complex laws and regulations governing watershed lands and water resources, we must carefully review any proposed language to determine its impact on watershed lands and public water suppliers.

It is our understanding that the proponents of the bill intend to seek further protection of watershed lands that *are not owned by the water company or otherwise subject to conservation easements*. However, the language in the proposed bill seems to refer to water company land located on public drinking water supply watersheds.

Watershed lands owned by a water company, defined as Class I and Class II lands, are already highly regulated under current law. For example, water companies cannot lease or assign Class I lands and such lands can only be sold to the state, a municipality, or another water company. The buyer must agree to maintain the land subject to the restrictions in the law and those imposed by a permit authorized by the state Department of Public Health. The company can change the land's use only if it demonstrates that the change (1) will not harm the purity and adequacy of water supply, now or in the future and (2) is consistent with a DPH approved water supply plan filed by the company.

However, there are situations where watershed lands are owned by private parties and not subject to the same rigorous protections as Class I and Class II lands. Generally, these lands are considered to be on a public water supply watershed if they are (1) near the water supply source (e.g. within 250 feet of a reservoir, 200 feet of a well or 100 feet of a watercourse) and (2) within 150 feet of a reservoir or major stream that runs into a water supply source. In addition, certain environmentally sensitive lands, such as those that are steeply sloped or where bedrock is less than 20 inches from the soil surface, are considered to be part of the watershed.

Clearly, protecting non-water company owned watershed lands is critical to ensuring the quality of our public water supplies. Fortunately, Connecticut has taken several important steps to protect watershed lands, such as tax credits to encourage preservation and requiring notification of the Department of Public Health of development applications on watershed/aquifer lands that were only sent to water utilities prior to 2006. However, as the state faces additional pressure to develop land for housing and industrial uses, it is becoming increasingly important that we consider the impact of such growth on the state's water resources and public water supplies.

CWWA does support efforts to strengthen the role of the state Department of Public Health in commenting on proposed developments in watershed or aquifer areas by requiring such comments to be considered by local inland wetland agencies as well as on appeal in the courts. We would be happy to work with the committee and proponents of the bill in drafting language to achieve this goal.

The Connecticut Water Works Association, Inc. (CWWA) is an association of public water supply utilities serving more than 500,000 customers, or population of about 2½ million people, located throughout Connecticut. Membership in the Association is open to all Connecticut water utilities: investor-owned, municipal and regional authorities. CWWA is committed to working with the state to develop policies that will ensure that Connecticut has a safe, ample supply of water to meet present and future needs.

SUMMARY OF CURRENT RESTRICTIONS ON WATER COMPANY LANDS

Under Section 25-37c of the CGS, water companies cannot lease or assign Class I lands and such lands can only be sold to the state, a municipality, or another water company. The buyer must agree to maintain the land subject to the restrictions in the law and those imposed by a permit authorized by the state Department of Public Health. The company can change the land's use only if it demonstrates that the change (1) will not harm the purity and adequacy of water supply, now or in the future and (2) is consistent with a DPH approved water supply plan filed by the company.

Similarly, DPH can grant a permit for a transaction involving Class II lands or a change of its use, if the company demonstrates that its proposal will not significantly harm the purity and adequacy of the water supply and than any use restriction DPH imposes can be enforced against subsequent owners, lessees. In the case of the sale, lease or transfer of land, DPH can grant a permit only if use restrictions will prevent the Class II land from being developed. When a transaction is with another water company, municipality or a land conservation organization, DPH can grant a permit only if there is a permanent conservation easement on the land, which preserves the land in perpetuity, with most of the land remaining in its natural condition.

In addition, the law prohibits water companies from abandoning a water supply unless the Commissioner of Public health approves and determines in concurrence with the state Departments of Environmental Protection and Public Utility and the Office of Policy and Management, that the water is not needed now, in the future, or in the case of an emergency. (Section 25-33k, C.G.S.) The proposed abandonment must also be identified in an approved water supply plan that addresses the utility's needs and supplies for 50 years before an abandonment is approved. Towns, the Nature Conservancy, the Trust for Public Lands and land trusts must be notified of any source abandonment, forecasted land sale or land reclassification contained in a water supply plan. These organizations, as well as the general public, have the opportunity to comment on the proposed abandonment and the DPH Commissioner must consider these comments when approving the plan. (Section 25-32d, C.G.S.)