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March 12, 2010

**Testimony in regard to:**

**HB 5477 AN ACT CONCERNING THE CLEAN WATER ACT AND STREAM FLOW REGULATIONS**

Submitted by: Steven K. Reviczky, Executive Director, Connecticut Farm Bureau Association

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*The following testimony is submitted on behalf of the Connecticut Farm Bureau, a statewide nonprofit membership organization of over 5,000 families dedicated to farmers and the future of Connecticut agriculture.*

Senator Harris, Representative Ritter and members of the Public Health Committee:

Connecticut Farm Bureau Association supports Section 2 of HB 5477 which would require the Department of Environmental Protection, in consultation with the Department of Public Health, to complete a study of all watershed basins prior to promulgation of stream flow regulations.

The study of all watershed basins would provide a sound foundation for future water use planning in Connecticut by identifying areas of concern, assessing the potential impact of stream flow regulations on public and private water supply systems and provide all stakeholders, with an opportunity to provide input for long term water use planning. Connecticut Farm Bureau took the same position in its written comments provided the Department of Environmental Protection in February of this year with regard to its proposed stream flow regulations.

Connecticut Farm Bureau supports sustainable water use planning and conservation as continued access to and the availability of water is critical to all aspects of Connecticut agriculture.



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February 2, 2010

Mr. Paul E. Stacey  
Director  
Bureau of Water Protection & Land Reuse  
Planning & Standards Division  
Department of Environmental Protection  
79 Elm Street  
Hartford, CT 06106-5127

Re: **CT DEP Proposed Stream Flow Standards and Regulations**

Dear Mr. Stacey:

Connecticut Farm Bureau Association is a private non-profit association representing over 5,000 member families. Connecticut Farm Bureau members are engaged in all aspects of agricultural production including, but not limited to: livestock and poultry production, vegetables, fruits, nurseries and greenhouses, dairy and feed. All of these agricultural enterprises could not exist without sustainable access to the lifeblood of farming, water.

While the Connecticut Farm Bureau supports the fundamental need to maintain viable aquatic life in Connecticut's rivers and streams, we have serious concerns over the impact these proposed regulations will have on Connecticut farmers and the process that CT DEP utilized to finalize these proposed regulations.

The CT DEP estimates that agricultural production currently accounts for 22% of all water used in Connecticut. Unlike other users of water, the majority of water used in agricultural production is recycled back into the hydrologic cycle. Historically, farmers have always had access to water to maintain their crops and livestock and have implemented best management practices to conserve this valuable resource. The consumptive use of water by an individual farmer is often variable, seasonal and difficult to predict. This is especially true for field grown crops and livestock. This point becomes especially crucial during low flow periods or emergency drought situations when the need for access to water by Connecticut farmers is critical to the immediate survival of crops and livestock.

The concerns of Connecticut Farm Bureau are summarized as follows:

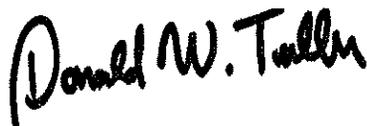
- 1) There are no provisions in the proposed regulations to keep Connecticut agriculture viable. Sec. 26-141b-3 (c) exempts twenty activities from the proposed regulations but does not exempt agriculture. Variances and off-ramps have been presented by the CT DEP as alternatives for agriculture, but the cost to comply and the timeline for approval of variances may not meet the immediate and critical needs of agricultural producers. Even if an agricultural producer requests a variance, there is no guarantee in the proposed regulations that the commissioner will issue the variance, what the cost to obtain that variance will be and whether the variance will meet the immediate needs of the farmer.
- 2) The vast majority of Connecticut farmers are family run operations. Unlike other major users of water, Connecticut farmers cannot easily pass along the costs of complying with these regulations. Because agricultural products can easily flow into Connecticut from other states and countries, the added burden of compliance will fall on the family farm. This will only add to skyrocketing operational costs, threatening the sustainability of many Connecticut farms.
- 3) The proposed regulations do not provide for the "needs and requirements" of agriculture as specified in PA 05-142 of the Connecticut General Statutes.
- 4) There are no provisions in the proposed regulations to assure Connecticut farmers that they will have access to water in the event of low flow and severe drought situations. What happens in an emergency situation? Will Connecticut farmers have access to water to support failing crops or livestock? This is a serious concern to Connecticut farmers and is not addressed in the proposed regulations.
- 5) The cost to obtain and comply with new water diversion permit requirements is prohibitive for the vast majority of Connecticut farmers. This will stifle economic growth and expansion in the agricultural sector and will ultimately harm the viability and sustainability of many Connecticut farms. Undoubtedly, the economic hardship to comply with these proposed regulations will trickle down to other businesses and industries that support Connecticut agriculture. The regulatory impact of the proposed regulations on Connecticut businesses, including agriculture, does not appear to have been adequately addressed by the agency.
- 6) The proposed regulations call for the development of stream classifications in the five major basins over a five year period. Once stream classification is complete in a particular basin, specific requirements will be placed on users who divert water from those streams or pump significant amounts of water from other sources within the aquifer. Agricultural producers will not know how these regulations apply to them until after the classification process is completed. This lack of specificity makes it very difficult for any farmer to know how to plan for the future of his or her farming operation, or even whether they will have access to water once the basins' streams have been classified.
- 7) The comments and concerns regarding agriculture provided to the CT DEP by the Commissioner's Advisory Group were not incorporated into the proposed regulations. Members of the Commissioner's Advisory Group, which included the Connecticut Farm Bureau Association never had an opportunity to provide input on the final draft of the proposed regulations, before they were published and sent to public hearing.

Connecticut Farm Bureau would like to take this opportunity to present recommendations to the CT DEP to address the concerns of Connecticut agriculture:

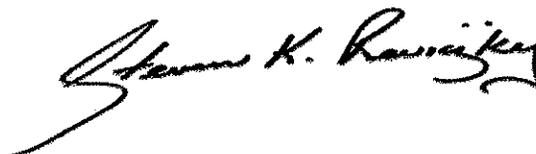
- 1) There are twenty exemptions in the proposed regulations. Agriculture, as defined by CGS 1-1(q), should also be included as an exempt activity.
- 2) Reconvene the members of the Commissioner's Advisory Group to complete the policy and implementation portion of the regulations and redraft the regulations to address the comments heard during the public hearing process. The Commissioner's Advisory Group should then be provided an opportunity to comment on the redraft.
- 3) Assure that agriculture, as defined by CGS 1-1(q), is guaranteed access to water during low flow and emergency drought situations.
- 4) Complete the classification of rivers and streams first and then develop regulations to address identified concerns once classifications are completed. This will allow the CT DEP to focus on where the stream flow problems lie during periods of low flow and draft remedial regulations accordingly.

Connecticut Farm Bureau Association welcomes the opportunity to continue to work with the CT DEP to adopt regulations to protect the future of Connecticut agriculture.

Respectfully submitted,



Donald W. Tuller  
President



Steven K. Reviczky  
Executive Director