



Testimony
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The Connecticut Water Works Association (CWWA) opposes **HB-6505, An Act Concerning Stream Flow Regulations**, which significantly expands the scope and reach of the state Department of Environmental Protection's (DEP) proposed stream flow regulations. The proposed regulations, which will apply to every river and stream in Connecticut, have already been rejected twice by the legislature's Regulations Review Committee because they failed to adequately balance the need to protect the state's aquatic life with the need to ensure sufficient water supplies to meet the public health, safety and economic development needs of the state.

As stewards of the state's water resources, CWWA remains committed to developing balanced stream flow regulations. To this end, we are actively participating in facilitated discussions with DEP and other stakeholders to try to resolve outstanding concerns regarding the impact of the regulations on public water supplies. HB-6505 thwarts these efforts because accommodations that could be made if the regulations remain limited to surface water supplies may not be feasible or responsible if groundwater withdrawals are now thrust into the scope of the regulations. It would seem that the parties should focus on adopting regulations under the existing authority and allow for the environmental benefits from those measures be realized rather than reach to expand the authority and undermine the existing efforts.

Given the considerable concerns voiced about the proposed regulations to date, it seems ill advised to expand the scope of the law until it can be demonstrated that reasonable, balanced regulations can be adopted for surface water supplies consistent with the existing authority. Expanding the law to include groundwater will have broad reaching implications for public water suppliers and adversely affect businesses, communities, golf courses, agriculture, public safety, and economic development throughout the state.

While we recognize that groundwater withdrawals can affect stream flow, regulating an issue as complex as the groundwater/surface interaction between a pumping well and an adjacent surface water body is extremely difficult and there is limited scientific data to guide the process. Several water companies analyzed the impact of DEP's initial proposed groundwater provisions on their water systems and concluded that limits on groundwater withdrawals would have severely limited the amount of water they had to meet the public health, safety and economic development needs of their community, including:

(Include examples of impact of groundwater provisions on various members)

Water systems, including municipal water systems, will incur considerable costs to comply with the law if expanded to include groundwater. This would be nothing short of an unfunded mandate at a time when Connecticut can least afford it. Though the fiscal note in the original law avoided that concern because it anticipated a prolonged implementation schedule, it is clear now that compliance with the regulations will come at considerable cost to both municipalities and the state. Ignoring that because it may not be an immediate expense is just not appropriate.

In many cases, communities would have faced moratoriums on new construction and economic development as well as concerns that supplies were inadequate to protect public health and safety. In unanimously rejecting the proposed stream flow regulations, the legislature's Regulations Review Committee specifically and repeatedly referenced concerns that they incorrectly included groundwater withdrawal provisions. With this legislative proposal, the position of the water industry and legislators on the Regulations Review Committee who insisted that PA 05-142 did not provide that authority is validated and should send a clear message to the Department that they can not and should not incorporate groundwater in subsequent phases of regulations under the existing law as they have indicated they plan to do.

CWWA has been very clear and consistent about the issues we believe must be addressed to achieve a balanced approach for regulating stream flow. While some would argue the underlying law already has adequate protections to ensure that balance and provide for other water needs, it has been evident in the two failed attempts to adopt regulations that the Department has not achieved that balance. Given that, it is essential that before the legislature considers expanding the DEP's authority to include groundwater, they should ensure that regulations adopted for surface water supplies achieve the necessary balance. Further, as suggested in a bill now being considered in the Commerce Committee (SB-1020, *AAC Water Resources and Economic Development*), before the scope of the legislation is expanded, there should be explicit language added to include other agencies in the regulatory process to ensure that other needs are properly considered as well as other provisions to eliminate any ambiguity in how the following issues should be addressed:

■ **Protect the Adequacy and Availability of Public Water Supplies Needed for Public Health & Safety**

The intent of Public Act 05-142 was to create balanced stream flow regulations that ensure that public water systems have sufficient supplies to meet their statutory obligation to provide a safe, adequate supply of potable water for public health, safety, agriculture and economic development. Unfortunately, based on an analysis conducted by several water companies, by requiring public water suppliers to release certain quantities of water into the rivers and streams, the proposed regulations that were rejected by the Regulations Review Committee would have resulted in a 10-40% drop in available water supplies, creating water shortages in some communities and limiting opportunities for economic development and housing construction. While changes from the original draft reduce obligations during portions of the year there are still significant impacts on available supply and utility operations during critical demand periods.

Recommendations:

- Build in protections to ensure that a public water system has sufficient water supplies to comply with the obligations as set forth in the regulations of CT State agencies” as well as for economic hardship;
- Authorize exemptions for systems that demonstrate that they cannot operate and attain the mandated release requirements taking into account the economic and technical feasibility of compliance;
- Require that any requirements consider the available supply and percent safe yield utilization such that releases are scaled back or an alternate release rule applies when such capacity does not exist;

■ Clarify the Basis for Classification of Rivers and Streams to Provide Greater Certainty to the Regulated Community

The proposed regulations require the DEP to categorize each river and stream in Connecticut into four flow classes based on whether the conditions are natural (Class 1) to minimally, moderately or significantly altered (Class 4). The compliance obligations differ considerably depending on a stream’s classification so there is great uncertainty for the regulated community on the potential impact of the regulations until the classifications are complete. To provide more certainty to the proposed regulations, CWWA recommends the following:

Recommendations:

- Require that DEP classify and prioritize compliance with the regulations at the onset rather than conduct a multi-year staged approach by basin to ensure the greatest benefits are achieved;
- Require that rivers and streams from which there is an existing or future public water supply diversion greater than 50,000 gallons per day (gpd) identified in an approved Water Supply Plan shall be classified as a 3 or 4;
- Require DEP to consider economic development needs when assigning stream classifications, and do so in concurrence with the state Departments of Public Health, Economic and Community Development and Agriculture.
- Require DEP to consider the feasibility of developing new sources of supplies and/or interconnections in the factors in its stream classification process;

Conclusion:

By adopting this balanced approach to regulating stream flow Connecticut will be a leader in enacting one of the strongest policies in the country to protect its rivers and streams. However, until these issues are addressed – and we are optimistic that they will be given the progress of current negotiations - we must oppose any effort to expand the scope of the existing law to include groundwater withdrawals in the stream flow regulations.