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**Testimony of David Sutherland – Director of Government Relations
Before the Environment Committee – March 7th, 2011
In Support of Bill 6505 – AAC Streamflow Regulations**

The Nature Conservancy maintains that the language of Sections 26-141a and b already requires the Department of Environmental Protection to include large wells (*significantly larger than single-residence wells*) in the “other structures” to be regulated under these sections. Nonetheless, we support Bill 6505 as an important clarification of the “groundwater issue” regarding the regulation, and with the understanding that we would not want the bill to be construed as necessitating a recommencement of the process through which regulations concerning surface water impoundments (*dams*) have been being developed.

The regulation which has recently been before the Regulation Review Committee only addresses water supply dams, and for reasons described below does not include groundwater wells. We would like to see that regulation proceed to adoption without inclusion of wells, but look forward to working with the water industry and the relevant agencies to subsequently develop a regulation that will include them, as we maintain the statute requires.

Section 26-141a of the General Statutes states: “Whenever any dam **or other structure** is maintained in this state which impounds, or diverts, the waters of a river or stream or which dam **or other structure affects the flow of water in such a river or stream**, the Commissioner of Environmental Protection may adopt regulations... setting forth standards concerning the flow of such water in accordance with section 26-141b.”

Section 26-141b states “Such flow regulations shall... be based on the best available science, including, but not limited to, natural aquatic habitat, biota, subregional basin boundaries, **areas of stratified drift**.....”

The words bolded here make it clear that the intention of these statutes is to include the regulation of wells, which affect the flow in a river, in the streamflow regulations. The only reason to mention stratified drift would be if groundwater withdrawals were to be included.

Nonetheless, members of the Regulation Review Committee stated during committee discussions that they did not wish to include large groundwater wells in the regulation because they were not certain that members of the General Assembly realized in 2005 that the bill they were voting on would include regulation of wells. The Co-Chairs of the

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committee expressed a desire to have the Environment Committee propose legislation this year to mandate regulations that would explicitly include groundwater wells. This legislation would do that.

The DEP in its cover letter to the Regulation Review Committee regarding a recent draft of the regulation, which did not include groundwater, stated its intention to take a phased approach to the streamflow regulation, addressing surface water impoundments first and groundwater later in a subsequent regulation. We maintain that to have submitted the regulation without including large wells, and without mention of future inclusion of them, would have been contrary to the statute. This bill would more explicitly clarify DEP's authority to address groundwater in a future regulation.

Aside from the legal requirements of the statutes, science clearly dictates that to truly protect the health and sustainable water levels of our rivers, we must address the impacts of large groundwater withdrawals. As the dead fish in the Fenton River near UConn's wells so compellingly demonstrated a few years ago, large wells can and do have dramatic effects on water levels and on the health of our streams.