

**Testimony of Sally Harold
Director Migratory Fish Projects –
CT Chapter of The Nature Conservancy
Before the Environment Committee**

February 22, 2012

**In Support of H. B. No. 5130
An Act Concerning the Dam Safety Program.**

On behalf of The Nature Conservancy's 28,000 members in Connecticut, I am here today to express our support for Bill 5130. This bill proposes transferring the responsibility and costs for inspection of privately-owned dams from the CT DEEP to the dam owners, proposes those owners pay an annual fee for their dam and requires that owners of high and significant hazard dams file Emergency Operation Plans for their dams. All owners of dams will be required to register them with the state.

Many dams benefit people by providing impoundments for water supply, electricity generation, and flood control, but the majority of dams in Connecticut no longer serve the purpose for which they were constructed. Where conditions are appropriate, The Nature Conservancy supports dam removal. Dams disrupt natural processes in rivers and prevent aquatic species from moving freely up and downstream. Over time, the presence of dams in our waterways has diminished water quality, altered habitat, affected thermal changes in the water, increased genetic isolation of aquatic species and affected the health of species inhabiting these important natural systems. For riverine migratory species, these unnatural barriers increase predation pressure as well as delays in migration. Dams prevent migration between feeding and breeding zones for fish, both resident and migratory. Selective dam removal, thoughtfully carried out, is one of the most cost-effective fisheries and river restoration methods available.

Connecticut has over 5,000 dams. Over 3,000 of these are regulated by the state due to the degree of damage that could result if they failed. More than 500 of these dams (about 17%) are classified as High Hazard or Significant Hazard dams meaning their failure could cause loss of life, damage to habitable structures, residences, roadways and railroads, and significant economic loss. Dams are weakened and become prone to failure by flooding, freezing and thawing, and old age. Therefore dams must be inspected at regular intervals, maintained and repaired; alternatively, where possible dam removal should be considered as a viable alternative to continual maintenance. The fairest way to prevent failure is to hold owners of dams responsible for the cost of inspection and accountable when dams are not maintained in safe condition. Many owners are unaware of their responsibilities and liabilities as a dam owner and even more are unaware of the impact dams have on streams. The approval of Bill 5130 will raise awareness of their responsibilities associated with dam ownership and improve public safety by ensuring that more dams are inspected more frequently.

Dam failures can be deadly and costly. In 1963 the Spaulding Pond dam in Norwich failed causing six deaths and six million dollars in damage. The 1982 failure of the Bushy Hill dam in Deep River caused an estimated \$50 million in damages.

Dam hazard ratings are based on probable damage or risk to downstream properties should the dam fail. Ratings should be reevaluated as lands are developed. Changing weather patterns are causing more severe and frequent storms in Connecticut so regular maintenance and inspection of dams is critical. The Dam Safety Unit of the CT DEEP is concerned with public safety around dams. Emergency Operating Plans for high and significant hazard dams will serve as a management tool to reduce public risk during storm events. Evacuations of neighborhoods downstream of a high hazard

dam will be based on topography and a dam's impoundment size rather than fear alone.

In order to meet the current schedule of inspections (once every 2 years for high hazard dams), CT DEEP's one dam safety inspector would have to inspect more than 450 dams each year. Since the Dam Safety Program is also responsible for the state's regulatory program and inspection of the state's own 265 dams, many dams that should be inspected each year are not. The program is currently able to undertake approximately 100 regulatory inspections of dams each year. Transferring the responsibility of dam inspections from the state to dam owners and privately-hired engineers will result in dams being inspected according to schedule, (every two years for high hazard, every five years for significant hazard, seven years for moderate hazard and every ten years for low hazard). It's likely that some owners who are obligated to pay an engineer to inspect their dams may decide to pursue removal as a desirable alternative. And those dams that remain in our rivers will be safer.

Connecticut requires that all dams be registered and that owners provide the state with updated information when ownership or the status of the dam changes. Unfortunately, close to 2,000 dams in Connecticut remain unregistered. An annual fee and reporting document for dam owners could provide a mechanism for the state to keep their dam database up to date. In New Hampshire, an annual registration fee ranging from \$400 to \$1,500 according to a dam's hazard class rating is charged to dam owners. Bill 5130 proposes charging an annual fee of \$4,500 to \$2,500 for high and significant hazard dams. We believe many of the owners of these dams (water companies, hydro-electric facility operators, lake associations, etc.) are deeply invested in ensuring their dam's safety and an annual fee in this range would be unfairly burdensome. Rather than an annual fee for maintaining a dam, we believe a fine schedule should be adopted and an enforcement system established through which the Dam Safety Unit could easily assess and collect fines.

Fines should be charged when dam owners fail to register their dams, fail to comply with inspection schedules and reporting requirements, and fail to maintain their dams in safe condition, by completing necessary repairs in a timely manner. Dam owners who maintain their dams in good condition, follow the mandated inspection schedule and comply with the reporting requirements should perhaps pay only an annual owner's fee of \$400 to \$1,000 as in the New Hampshire example.

With regards to the proposed language, Sec.4. Section 2a-409 (e), The Conservancy suggests that the language be amended as follows:

NEW (b), The owner of any dam or similar structure shall notify the commissioner by registered or certified mail, return receipt requested, of a transfer of ownership of such dam or similar structure not later than ten days after the date of such transfer. The commissioner shall adopt regulations in accordance with the provisions of chapter 54 establishing the fees for registration and transfer of registration.

(NEW) (e) The owner or owners of real property on which a high or significant hazard dam is located shall pay a fee **IF THEY FAIL TO FILE AN EMERGENCY OPERATING PLAN OR IF THEY FAIL TO KEEP THEIR DAM IN GOOD CONDITION BY FAILING TO COMPLETE NECESSARY REPAIRS IN A TIMELY MANNER.** Fees shall be four thousand five hundred dollars for each Class C high hazard dam and two thousand five hundred dollars for each Class B significant hazard dam. This provision shall not apply to dams owned by the state of Connecticut.