

Connecticut Council on Environmental Quality
79 Elm Street
Hartford, CT 06106

1/29/13

Dear Council on Environmental Quality,

We are writing to provide you with information so you may discuss and take positions on

- 1) the non-regulation of UConn's publicly-owned water infrastructure by DPH and
- 2) the implications of DPH's non-regulation upon the EIE-process UConn is conducting as it tries to solve its self-generated problem of building out in Storrs without an adequate water supply.

It is often claimed that DPH still governs the publicly-owned system in Storrs; as in this statement from the OLR report entitled "REGULATION OF UCONN WATER SYSTEM": "UConn is subject to regulation by the Department of Public Health (DPH) with regard to the quality and purity of its water supply." (See: <http://www.cga.ct.gov/2002/olrdata/et/rpt/2002-R-1008.htm>)

What that means is that the tap water is tested regularly for potability.

DPH and other agencies have no regulatory enforcement powers when it comes to regulating the adequacy of UConn's publicly-owned water infrastructure; because the way adequacy is regulated is through the "water plan" that, statutorily, only water companies (in other words, not UConn) are required to file.

The statewide crisis UConn has precipitated is a crisis of "adequacy" and this is how it happened:

At the very moment UConn 2000/21st Century UConn was unrolling, UConn presented a "water plan" that said there would be little or no growth of population served (see attached chart from that water plan). In response to this obvious falsehood, DPH was informed in written comments sent by the Naubesatuck Watershed Council in summer 2000 during its review process for UConn's submitted plan. (CEQ was informed of this at the same time by NWC.) At the end of November 2000, while the DPH was still reviewing the UConn water plan, AG Blumenthal abolished UConn's water company status—which removed DPH's enforcement power to regulate UConn's water plan; so henceforth, UConn's water plan, and planning became unregulated.

By cooking population #s, and not being stopped from doing that by a newly-disempowered DPH, UConn was able to build out beyond its water supply without fear of regulation or even accountability—and that has created today's water crisis in Storrs.

In 2005 the state was shocked that the Fenton was sucked dry, but the DPH and UConn had been told years earlier by NWC that this was going to happen. In 2007, UConn state employee Tom Callahan stated publicly that UConn had enough water for its future plans (http://articles.courant.com/2007-05-22/news/0705220866_1_gray-water-connecticut-water-university-water). State employee Callahan's claim was not true, of course, but since there was no law that could be enforced to prevent him from misrepresenting reality, his claim was considered "true." Observe, please, the very destructive result of UConn's unaccountability—itsself a result of the AG's formal opinion, which created a serious problem that needs to be solved.

The most authoritative and objective way of expressing this problem is grounded in the OLR's finding that UConn is not authorized by law to conduct "water system planning," nor are relevant state agencies (DPH & DEEP, municipalities, etc.) empowered to regulate UConn in this area. (See <http://www.cga.ct.gov/2002/olrdata/et/rpt/2002-R-1008.htm>)

This is the problem: Despite the documented absence of laws and regulation governing it, UConn is conducting "water system planning" as it tries to find water to supply new urban development in Storrs.

This problem is compounded by the environmental policy direction UConn has adopted under the office of state employee Richard Miller, who objects to the restoration of water company laws that once governed the

publicly-owned system in Storrs:

“He said that if UCONN were deemed a water company that development on the campus would be severely restricted and have a detrimental impact on UCONN 2000 and 21st Century UCONN.”
(See “Nature and Sources of Opposition”: <http://www.cga.ct.gov/2003/jfr/s/2003SB-01094-R00ENV-JFR.htm>)

Under state employee Miller’s direction, UConn uses its extralegal status to do things with water resources that would otherwise be, in fact, illegal. An entire constellation of “water company” laws—27 of them according to Ct Water Works Association—are not enforceable upon UConn-controlled publicly-owned water infrastructure; what, exactly, are these 27 missing laws?
(See “Nature and Sources of Opposition”: <http://www.cga.ct.gov/2003/jfr/s/2003SB-01094-R00ENV-JFR.htm>).

And so, we provide you with this information so you may discuss and issue advisory positions on

- 1) the non-regulation of UConn’s publicly-owned water infrastructure by DPH and
- 2) the implications of DPH’s non-regulation upon the “three-options” EIE-process UConn is conducting as it tries to solve its self-generated problem of building out in Storrs without an adequate water supply.

Thank you,

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