

This is a Comment to the Committee on the Environment  
Connecticut Legislature, Room 3200 of the Legislative Office Building  
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From Joseph G. Smith and Doriene Smith,  


We support Raised Bill No. 6537, January session, 2013, An Act Concerning Water Quality And The University Of Connecticut with conditions.

First, the University of Connecticut and Town of Mansfield will jointly submit an Environmental Impact Evaluation for a major water plan to the Connecticut DEEP. They are currently reviewing replies from state residents who await their response. Their entire plan, and its EIE, should be scrapped for the following reasons:

1. The EIE was drafted by Milone & MacBroom with three options, one was for “no build” two others would ask Connecticut Water Company or Windham Water Works to provide water to UConn and Mansfield. A third option was added and the process had gotten very far along with public hearings when the University’s spokesperson on the EIE, Jason Coite, UConn’s Environmental Compliance Engineer and spokesperson for the EIE in the Office of the Executive Vice President for Administration and Chief Financial Officer, confirmed that because the MDW was added later they would review the EIE to make any “necessary changes”. Clearly those changes were to be made after submission of the EIE for comment.
2. When the University of Connecticut was operating as a planner to engage in major water supply to the Storrs campus, they were not a fully regulated water company. Those actions were complicated by a partnership that had been formed with the Town of Mansfield, implicating the town in potential illegal actions.
3. UConn has a recent history of correcting bad water use practices however those improvements were made only after tragic consequences. UConn’s over consumption went on unchecked. They failed to adequately monitor impacts on water sources to the point that they drew so much water out of the Fenton River that it was turned into a dry bed filled with thousands of dead fish.
4. UConn also has a long and problematical record of fighting against residents who express concern about their water use or over development in Storrs. Clearly they are not a good candidate for self-regulation and should be immediately regulated as a water company.
5. UConn’s Storrs campus has certain geological formations that create potential toxicity problems according to the U.S. Geological Survey. Development there should be restricted by these problems and plans to foster wider growth under the EIE abandoned.
6. Unless the EIE is scrapped UConn might take actions intended to obfuscate the legal questions and enable them to carry on as usual. For example they might try to deed over lands on which water company utility is located. Then, with the

water companies as their usual "regulation by proximity" cover they would try to carry on with habitual actions of a water company, despite their unregulated status.

We stress the importance of passing the section of Bill 6537 which regulate UConn as a water company; Section 25-32a of the General Statutes. We are also submitting the petition reprinted below asking Representative Haddad to help us to pass the Uconn Water Company Bill. <http://www.gopetition.com/petitions/uconn-water-company-bill.html>.

While Representative Haddad supported legislation to regulate UConn as a water company in previous years his reply to us states that he now believes that "legislation that extends regulations to cover UConn is an imperfect answer". He sees unwelcome accommodations for the university as a likely outcome and worries about potential limitations to UConn's ability to develop lands. We disagree with the argument that UConn would be curtailed from development in the event that they were regulated as a water company but we too oppose exceptions to general statutes for UConn and seek a bill that fully regulates all of UConn's water company activities.

To avoid confusion we urge you to take everything but Section 25-32a out of your bill. The reason is that class 1, 2, 3 land issues do not apply to UConn Storrs, because 10 years ago and UConn was permitted to leave that regulatory system and institute "aquifer protection areas" around the wellfields.

Very simply put the Storrs campus of UConn is situated on a site with low groundwater. This problem should not put undo pressure on the state's taxpayers simply in the interest of any and all growth. Thus far we have heard that the pipeline alone will cost \$51 million. This is may become part of a larger financial cost to taxpayers, and ratepayers, as fall out from a poorly designed development effort. We have already seen constraints on the town's budget where plans to repair schools is concerns. This is a very unwelcome development from a plan that was supposedly designed to help the town.

The problem would be solved if UConn found another site for the tech park. We realize that this might seem harsh given that the promise has been for jobs and further development to enrich our community. But Mansfield has already had a successful history as an area where housing values still remain higher than average. With the improving economy we should be able to maintain readily without resorting to emergency measures like diverting the state's water resources to our town.

We felt strongly enough about the question of UConn's operations as a non-regulated water company and their EIE to set up a petition about it online which has 95 signatures to date [March 14, 2013]. We enter it here as evidence of the need for full regulation of any and all UConn activities as a water company.

**The petition states:**

The University of Connecticut has proposed to divert water from reservoirs and rivers in several watershed regions in the state to spur urbanizing development on prime agricultural soils in Storrs, Connecticut.

We call upon the CT legislature to raise and pass a new version of the "UConn Water Company" bill that nearly passed in the 2001 & 2003 sessions.

The Office of Legislative Research finds 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>)

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.

Before any official decisions are made regarding UConn's plans, we call upon CT legislators to bring the entire water process into a state of law and order by raising and passing a new version of the "UConn Water Company" bill.

**Here are 9 good reasons to sign this petition:**

1) UConn was regulated as a water company until AG Blumenthal issued a formal opinion in 2000 telling relevant agencies to ignore the applicability of these laws. An entire constellation of "water company" laws—27 of them according to Ct Water Works Association—are not enforceable upon the publicly-owned UConn water infrastructure. (See "Nature and Sources of Opposition": <http://www.cga.ct.gov/2003/jfr/s/2003SB-01094-R00ENV-JFR.htm>).

—Legislation must be passed to empower regulators to enforce these laws, which are normal and do not prevent sustainable development everywhere else in the state.

2) Good citizens of Mansfield and Willimantic have tried to control the destructive land-use and water management activities of UConn since "water company" status was removed. In terms of water management, planning and operation, UConn has "sovereign powers" and can ignore at least 27 water laws. Citizens participate in planning and environmental impact processes that are purely for show because UConn is able, due to lack of regulation, to achieve its predetermined end. When citizens go to their municipality, or relevant state agencies, to try to get UConn to plan for and manage the public-water system the way it is done in the rest of the state, they are told that "UConn is not a water company. There is nothing we can do because the 27 water company laws are unenforceable."

—Legislation must be passed to empower regulators to enforce these laws; without them, citizens are totally disempowered, too.

3) UConn enjoys carte blanche in regard to the publicly-owned system because the Mansfield government has never demanded that UConn be returned to water company status. Tellingly, Mansfield did not support the 2 water company bills raised by its state Representative Merrill and Senator Williams in 2001 and 2003. Its town council has totally failed to demand a Storrs Water Commission instituted that would be accountable for the municipality's stake in the publicly-owned system. Mansfield's Town Council will continue to defer to UConn, using the excuse that it has no powers to control the planning for, and the operation and billings and rates, of the publicly-owned system.

—Legislation must be passed to make the Mansfield Town Council, and other municipal boards, accountable for the enforcement of water company laws that are standard everywhere else in the state.

4) 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. In response to this obvious falsehood, DPH was informed in written comments sent in summer 2000 during its review process for UConn's submitted plan. 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—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 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](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."

Today, with its plans to draw water from far outside its watershed, we see how untrustworthy UConn has become—for example in the way it unaccountably shifts the gallons-per-day projections of water demands in its EIE—because it is not regulated as a water company. When it is regulated, the DPH can enforce water planning laws, and demand and receive honest future growth figures.

—Legislation must be passed to make the DPH accountable for the enforcement in Storrs of water company laws that are standard everywhere else in the state.

4) Because it is not a water company, UConn is not empowered by law to conduct water system planning, and relevant state agencies are not empowered to regulate UConn as it conducts water system planning.

The chaos and panic experienced by towns identified in UConn's Water Diversion EIE as places where millions of gallons of water will either be sucked from or pass through results from the fact that whole process is occurring outside the constellation of water company laws. The current "three options" plan for water pipeline creation and diversion into Storrs, Connecticut "by UCONN" and the Town of Mansfield is extralegal, and no one can explain what regulatory regime or system of legal accountability is presently in place.

—Legislation must be passed to make the UConn and relevant agencies accountable for the enforcement of water company planning laws that are standard everywhere else in the state.

5. UConn's management and use of the publicly-owned well fields on the Fenton and Willimantic Rivers is not regulated, as it should be, by DEEP because "University of Connecticut" is not included in the aquifer protection statutes. State employees who serve as UConn's "environmental policy directors," Thomas Callahan and Richard Miller, are aware of this, but in keeping with UConn's "environmental ethic" have not proposed legislation to solve this problem.

—Legislation must be passed to make UConn and relevant agencies accountable for the enforcement of water company laws that protect wellfield aquifer protection areas—and that are standard everywhere else in the state.

6. The Town of Mansfield's manager, Mathew Hart, has said the university will also control and manage sewer facilities that would "clean" the water as it exits the various structures where they want to provide water. This implies that UConn is already authorized to act as both a water company and a water treatment company. The statutory basis that would empower UConn to do these things does not presently exist, nor does a clearly-defined regulatory regime or system of legal accountability.

—Legislation must be passed if citizens expect UConn's sewer operations to be regulated according to state norms.

8) Realizing that, because it operates the public-water system extra-legally, and faces serious legal problems as a result, UConn partners Mansfield for legislative bonding (i.e., the acquisition of scarce tax dollars) for water-supply and sewer extensions.

For example, at this very moment, UConn is breaking the contract that state employee Tom Callahan signed with Mansfield to supply non-University users with, and to bill for, publicly-owned water. The contract says that UConn will do the billing, but it doesn't: New England Water Utility Services does the billing. This reveals the lack of a clearly-understood regulatory regime and system of legal accountability.

It also raises the possibility that the publicly-owned system has been, or is being, privatized, without any public disclosure or hearings.

The water system in Storrs is publicly-owned and yet citizens have absolutely no representation in the process of selecting water companies that would be taking water they may one day need to sustain themselves and their families. And, since there are no water company regulatory systems in place to govern the publicly-owned water system, there is no entity empowered by statute to regulate the rates being charged for water or the amounts used.

—Water company legislation must be passed to prevent the publicly-owned water system from being privatized without the awareness and consent of stakeholders.

9) UConn is an instrumentality of the state and its functions are supposed to execute the policies of the state plan of conservation and development. However, for the reasons detailed above, the handling of water resources by their financial offices and Office of Environmental Policy runs in direct opposition to the state plan of conservation and development.