



OLR RESEARCH REPORT

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ABANDONING WATER SUPPLIES

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You asked for the law on public water supply abandonment and information about abandoned water supplies since OLR's last report on this topic, [2004-R-0368](#).

SUMMARY

By law, water companies (including municipal and regional water utilities) or other entities must obtain a Department of Public Health (DPH) permit to abandon a water supply source ([CGS § 25-33k](#)). The law establishes two sets of criteria by which DPH must determine whether a water supply source may be abandoned. The criteria are based on the volume of water that the source can dependably supply during a critical dry period without considering available water limitations. One set of criteria apply only to water company-owned sources that yield less than 0.75 million gallons per day under these conditions. The second set apply to sources owned by water companies or other entities (e.g., a community water system or state agency) that are capable of yielding larger volumes.

According to information provided by DPH, the department has granted approximately 40 permits to abandon water sources since 2004. In about 40% of these cases, the sources were replaced on site – i.e., a replacement well was developed within the same wellfield (DPH requires permits even if the source was to be replaced). In the other cases, there was a variety of dispositions of the water source. For example, several cases involved abandonment of sources that were interconnected to other

sources. Some of the abandoned sources were marginal sources or sources that had never been used. In a few cases, the sources were historically contaminated.

ABANDONING WATER SOURCES

In 2004, legislation updated the criteria by which the DPH commissioner evaluates proposals to abandon a water supply source ([PA 04-2](#), May Special Session ([§§ 44 & 45](#))). Among other changes, the act established separate criteria for permit applications depending on the size of the water source. (Prior law had one set of criteria, nearly identical to the requirements under the act for smaller sources). [PA 11-242](#) made further changes to the process. The current requirements to abandon a water source are described below.

Water companies seeking to sell an abandoned water supply source must follow a separate procedure notifying DPH and other water companies the department determines could reasonably be expected to use the source to give them the right of first refusal to acquire it ([CGS §§ 25-33l](#) and [25-33m](#)). If you would like more information on laws pertaining to selling abandoned water sources, please let us know.

In 2012, the Public Health Committee favorably reported a bill ([sHB 5334](#)) that would have combined the processes within DPH for the sale and abandonment of potential and actual water supply sources.

Application Procedure

The law requires any entity seeking to abandon a water source to apply for an abandonment permit in the manner the commissioner prescribes. It requires the entity, 30 days before filing an application, to notify the chief elected official and local health department or district in each town in which the water supply source is located. It permits the towns, health departments or districts, and other water companies to submit comments to the commissioner, which they must do within 60 days of receiving notice from the company ([CGS § 25-33k\(b\)](#)).

The permit application is available on DPH's website: http://www.ct.gov/dph/LIB/dph/drinking_water/pdf/Source_Abandonment.pdf.

Common Criteria

In making her decision about abandoning a water supply source, in addition to the factors specified below dependent on the source volume, the law requires the commissioner to consider (1) the water company's and the state's water supply needs and (2) any comments she received about the application.

She must also generally consult with the Department of Energy and Environmental Protection commissioner, the Office of Policy and Management secretary, and the Public Utilities Regulatory Authority. But she need not consult with these agencies if she determines that the proposed abandoned water supply source is (1) a groundwater source with a safe yield of less than 10 gallons per minute and (2) of poor water quality. The law defines a "safe yield" as the maximum dependable quantity of water per unit of time that can flow or be pumped continuously from a source during a critical dry period without considering available water limitations ([CGS § 25-33k\(a\), \(c\)](#)).

Criteria for Smaller Water Sources

The law requires the commissioner to grant an abandonment permit to a water company that seeks to abandon a water source with a safe yield of less than 0.75 million gallons of water a day if she makes findings on the common criteria listed above and makes certain other findings. These criteria apply to applications to abandon a groundwater source, reservoir, reservoir system, or individual source in a reservoir system.

The commissioner must determine that the water company does not need the source for its present or future water supply services. If a water company is required to file a water supply plan (i.e., it supplies water to 1,000 or more people), the commissioner must also find that abandonment is consistent with that plan. A future source of water supply is one that is needed to serve areas reasonably expected to require service by the water company owning the source for up to 50 years after it applies for the abandonment permit.

The law prohibits the commissioner from granting an abandonment permit for such smaller sources if she determines that the company that owns the water source would need the source in an emergency or that abandonment would impair its ability to provide a pure, adequate, and reliable water supply for current and future customers ([CGS § 25-33k\(c\)](#)).

Criteria for Larger Water Supplies

The law requires the commissioner to grant a permit to a water company, the state, or another entity that seeks to abandon a water source with a safe yield of more than 0.75 million gallons of water a day if she makes findings on the common criteria listed above and certain other findings. She must find that the source's size or condition makes it unsuitable for present or future drinking water supply by the entity abandoning it. This criterion applies to a groundwater source, reservoir, reservoir system, or individual source in a reservoir system.

The law requires the commissioner to consider the source's general utility and viability for use to meet water supply needs. (Unlike the criteria for smaller sources, the law does not specify whose supply needs she must consider). In assessing the source's general utility, the commissioner must consider at least the following factors:

1. the source's safe yield, location relative to other public water supply systems, water quality, and potential for treatment;
2. water quality compatibility between systems and interconnections;
3. the extent of water company-owned lands for water supply source protection;
4. types of land uses and land use controls in the aquifer protection area or watershed and their potential impact on the source's water quality; and
5. any physical limitations to water service, system hydraulics, and topography.

The commissioner must also consider (1) any public water supply plans that water companies and water utility coordinating committees must file by law, (2) any other water system plan she has approved, and (3) the efficient and effective development of public water supply in the state ([CGS § 25-33k\(c\)](#)).

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