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**Testimony of David Sutherland – Director of Government Relations  
Before the Public Health Committee – March 13<sup>th</sup>, 2017**

**In support, with modifications, of Bill 7221  
AN ACT CONCERNING ACCESS TO WATER PLANNING INFORMATION.**

On behalf of The Nature Conservancy, I would like to express our support for Bill 7221. We thank the committee for raising this bill, and the Department of Public Health, Department of Administrative Services, Department of Energy and Environmental Protection, and the Connecticut Waterworks Association for their work on this important issue.

The intention of the bill is to ensure that information that would not present a threat to the security of our water supply systems and is essential for water planning, is not unduly withheld from the public. The language in this raised bill reflects some of the negotiations last year between the above agencies, water utilities, and environmental advocates. There are aspects of the language that require further negotiation, which we expect to re-commence shortly. We hope that the committee will approve the bill so as to provide both a vehicle and your sanction for these negotiations to continue.

Connecticut is fortunate to have adequate precipitation. Yet, there are increasing concerns about our generally ample water supplies. There are specific regions in the state where development has outpaced or is likely to outpace available water. Recent trends confirm predictions by climate scientists that the Northeast will see increasingly long drought periods interspersed with stronger storm events. And there are streams in Connecticut where excessive water withdrawals result in inadequate flows to support fish and other aquatic life. Well-informed and comprehensive planning, on both the statewide and local level, is crucial to ensure that our residents, our businesses and institutions, and our aquatic wildlife, in all parts of the state, have sufficient water.

The General Assembly took an important step for Connecticut's future in 2014 with the passage of P.A. 14-163, which mandated the Water Planning Council to prepare a comprehensive water plan for the state. Yet, completing some components of such a plan in a publicly transparent manner is difficult if the Water Planning Steering Committee and its members, representing various water-resource stakeholders, cannot have access to crucial information regarding water supply. This information is also essential for assessing many local water issues. Critical parts of that information, however, are not available to many Steering Committee members or the public because the material is exempt from our Freedom of Information laws.

In 2002 and 2003, in response to the 2001 terrorist attacks, the statutes that govern the types of information that can be released regarding public utility facilities were amended

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to restrict additional types of information pertaining to water utilities beyond what is restricted for electricity generation, gas distribution, and telecommunications facilities. Section 1-210(b)(19)(ix) includes among others, restrictions on "portions of water supply plans submitted pursuant to section 25-32d that contain or reveal information the disclosure of which may result in a security risk to a water company." The vagueness of that phrase can result in far-reaching restrictions on information release and do result in enormous time expenditures by state agencies to determine what should or should not be withheld.

The security of our water supplies is clearly of utmost concern to all citizens. As with many vulnerabilities, the precautions we take to protect ourselves must be balanced with other critical factors, such as privacy, expense, degree and nature of threat, and citizens' freedoms and rights to be aware of various government initiatives.

Unfortunately, threats to our water supply systems can come in many ways to many different components of those systems. Fortunately, there are challenges that any terrorist or vandal would face when trying to inflict widespread damage through most of those components.

As just one example, a 2011 magazine article discussed a vulnerability that water industry magazines have noted exists in scores of locations in any densely developed area, and yet which has been addressed to a great extent:

"DHS officials fear that terrorists could cheaply and easily launch a malicious attack using [redacted], but experts say that while [redacted] attacks are a potential threat, existing safety measures should be enough to thwart a potential attack.

"It's possible. Virtually any kid taking a high school science class could figure it out, but it would have to be done in such volumes that it would be relatively hard to do because of the fact that we use [redacted] prevention assemblies in major areas and almost all of your industrial areas,".

Vandals, disgruntled employees, or terrorists have countless locations and facilities through which to attack our water systems. Due to the sheer number of vulnerabilities, many of which are already obvious to anyone with bad intent; some of the information about our water systems, which is currently routinely withheld under Connecticut's FOIA exemptions, would not likely add significantly to a miscreant's knowledge of where to attack a system.

Some of the information is available on a very piecemeal basis if one combs through municipal commission records; so in many cases, someone bent on damaging a specific system could find information on that system. Yet, a municipal official or citizen attempting to do water planning on a statewide or regional level would face an arduous task to compile this crucial planning information, if they are unable to get it through relevant state agencies.

Some information regarding our water systems must absolutely continue to be closely protected. In order to more appropriately balance the important factors regarding the availability of other information, our statutes must allow for a more nuanced look at our needs for critical planning information, as well as security. We look forward to working with our agencies, the General Assembly, and the water industry to strike the correct balance.