



**AQUARION**  
*Water Company*

*Stewards of the Environment*

## TESTIMONY

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Aquarion Water Company**

**Before the Environment Committee**

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Aquarion Water Company is the largest provider of public drinking water in Connecticut, serving over 625,000 people in 51 towns. We appreciate the opportunity to comment on **SB - 427 – An Act Concerning Public Trust Components of the State Water Plan**.

Although we cannot support SB-427 as drafted because of its limited scope, our understanding is that the bill is intended to address concerns with the eleventh-hour insertions in the draft State Water Plan of language referencing the “public trust” and how this may impact the availability of public water supplies. It is critically important to us and to the public water supply industry that the “public trust” language be removed from the final version of the Plan.

After four years of productive, collaborative discussions among the Water Planning Council (WPC) and stakeholders, the Plan was revised at the last minute to reference the concept of public trust under the Connecticut Environmental Policy Act (CEPA).

However, because the State Water Plan references the CEPA statute in isolation and ignores the extensive body of common law and caselaw on the public trust doctrine and its application as well as other laws regulating water uses, it raises significant concerns regarding how this will impact the established water rights of public water suppliers, business and industry, agriculture, municipalities, and other water users. To extend the public trust doctrine unilaterally to the management of water resources of the State or the balancing of water needs is overreaching and potentially problematic. It creates significant uncertainty that will invite legal challenges to established water rights including registered diversions, diversion permits and other regulated water uses.

The potential misapplication of the public trust doctrine may also raise questions regarding the continued availability of water supplies needed to:

- 1) Maintain business and industrial operations;
- 2) Support agricultural industries, including farms, nurseries and greenhouses;
- 3) Plan and move forward with state and local economic development projects, housing developments, shopping centers, and business expansion;

- 4) Address public health and safety needs, including fire suppression; and
- 5) Support colleges, universities, hospitals, nursing homes and other health care facilities.

We are also concerned that inclusion of the "public trust" language in the draft Plan undermines the Plan's goal of balancing water uses, given that the definition of "balance" in PA 14-163 is not relevant to the application of the public trust doctrine. Furthermore, we are concerned these eleventh hour public trust insertions conflict with other laws including common law, the General Assembly's declaration of policy in Section 22a-15 of CEPA and related case law, Connecticut's current water allocation system, including extensive laws and regulations and the Public Act directing the WPC to prepare a State Water Plan.

Clearly, the public trust doctrine and its application in Connecticut is a significant public policy issue and should not be allowed to be inserted in the State Water Plan at the eleventh hour.

***Accordingly, we are urging lawmakers to revise this legislation such that references to the public trust doctrine are deleted from the State Water Plan.***

Thank you for the opportunity to comment on this important legislation.