



Connecticut Department of
**ENERGY &
ENVIRONMENTAL
PROTECTION**

OFFICE OF ADJUDICATIONS

IN THE MATTER OF : ***APP. No: DIVC-201709173***
AQUARION WATER COMPANY : ***July 27, 2018***
OF CONNECTICUT

PROPOSED FINAL DECISION

On July 20, 2018, Aquarion Water Company of Connecticut (Applicant) and staff of the Department of Energy and Environmental Protection jointly filed the attached Agreed Draft Decision for my review and consideration ([Appendix 1](#)). Regs., Conn. State Agencies § 22a-3a-6(1)(3)(A). I have reviewed this submission, the record and the relevant law in this matter. I recommend that the Commissioner find that the Application filed by the Applicant, for renewal – with modifications – of a diversion permit for the “Ridgefield interconnection,” complies with the applicable statutory and regulatory standards. Furthermore, I find that the parties’ Agreed Draft Decision satisfactorily conveys the factual findings and legal conclusions necessary to support my recommendation. I adopt this Agreed Draft Decision as the proposed final decision in this matter.

Along with the Agreed Draft Decision, the parties submitted a revised draft permit, acceptable to both the Applicant and Department staff. ([Attachment A](#) to the Agreed Draft Decision.) The record and the draft permit, including the modifications recommended in the Agreed Draft Decision, reflect Department staff’s consideration of all the relevant criteria set forth in the applicable statutes and regulations governing the proposed activity.

Conclusion

If conducted as proposed and in accordance with the terms and conditions of the draft permit, the regulated activities will be consistent with all relevant statutes and regulations. I therefore recommend that the permit sought by the Applicant be issued, consistent with this proposed final decision.



Brendan Schain, Hearing Officer

**STATE OF CONNECTICUT
DEPARTMENT OF ENERGY & ENVIRONMENTAL PROTECTION
OFFICE OF ADJUDICATIONS**

IN THE MATTER OF	:	APPLICATION NO.
	:	DIVC-201709173
	:	
AQUARION WATER COMPANY	:	
OF CONNECTICUT	:	JULY 20, 2018

AGREED DRAFT DECISION

INTRODUCTION

Pursuant to § 22a-3a-6(1)(3)(A) of the Rules of Practice of the Connecticut Department of Energy & Environmental Protection (“DEEP”), Aquarion Water Company of Connecticut (“Aquarion” or the “Applicant”) and staff of DEEP’s Water Planning and Management Division (the “DEEP Staff”) (collectively, the "Parties") respectfully submit this Agreed Draft Decision following the conclusion of the hearing in the above-captioned application matter. A Revised Draft Permit, DIVC-201709173 (Exhibit DEEP-13), to divert waters of the State pursuant to Connecticut General Statutes (“Conn. Gen. Stat.”) § 22a-368 is attached hereto as Attachment A and is acceptable to the Parties.

FINDINGS OF FACT

Taking into consideration and giving due regard to all the substantial evidence in the record, I make the following findings of fact:

I. Procedural History

On October 19, 2017, DEEP received a water diversion permit renewal application from Aquarion pursuant to Conn. Gen. Stat. § 22a-365 *et seq.* (the “Application”). (Exhibit APP-6; Exhibit DEEP-6). A Legal Notice of the filing of the Application with DEEP was published by Aquarion on October 19, 2017 in the Connecticut Post and the News-Times. (Exhibits APP-6, Attachment Q; DEEP-6).

The Application seeks re-authorization to conduct regulated activities associated with the transfer of public water supply from Aquarion's Greater Bridgeport public water supply service area (the "Greater Bridgeport System") to Aquarion's Ridgefield public water supply service area (the "Ridgefield System") near Route 7 at the Ridgefield/Wilton boundary. (Exhibits APP-3; APP-4; APP-5; APP-6; DEEP-3; DEEP-6). The transfer of water between these two service areas is known as the "Ridgefield Interconnection". (Exhibits APP-3; APP-4). The Ridgefield Interconnection is currently permitted under water diversion permit DIV-200502499 (Exhibit DEEP-14) and the Application seeks approval to continue operation of the Ridgefield Interconnection and to increase its authorized transfer capacity from 1.3 million gallons per day ("mgd") to 1.5 mgd. (Exhibits APP-3; APP-4; APP-6; DEEP-6; DEEP-14). The continued use of the Ridgefield Interconnection will provide adequate public water supply and operational flexibility to meet system demands throughout the Ridgefield service area. (Exhibits APP-3; APP-4; APP-5; APP-6; DEEP-6).

After submission of the Application, DEEP Staff, on December 19, 2017, requested additional information, including clarifications, regarding the Application. (Exhibit DEEP-11). Aquarion responded to DEEP Staff's request on January 10, 2018. (Exhibit APP-7).

DEEP Staff conducted a technical review of all application materials and supplemental information provided by the Applicant. (Exhibits DEEP-6; DEEP-17). This process included review of the Application by the DEEP Fisheries Division and the Connecticut Department of Public Health, and a review of the DEEP Natural Diversity Data Base ("NDDB"). (Exhibits DEEP-6; DEEP-7; DEEP-8; DEEP-9). On January 19, 2018, DEEP Staff issued a Staff Report that included a review of administrative milestones, resource descriptions, project impacts, alternatives, and environmental issues. (Exhibit DEEP-6). After considering the Application's consistency with the Connecticut Water Diversion Policy Act, Conn. Gen. Stat. §22a-365 *et seq.*, and its implementing regulations, Regulations of Connecticut State Agencies ("R.C.S.A.") §§ 22a-372-1 and 22a-377(b)-1 and (c), the Staff Report recommended that the Application be approved with certain permit terms and conditions. (Exhibits DEEP-6; DEEP-15).

Following its review, on February 6, 2018, the Commissioner published a Notice of Tentative Determination to Approve an Application for Diversion of Water Permit and Intent to

Waive Public Hearing with respect to Application No. DIVC-201709173 (the “Notice of Tentative Determination”) (Exhibit DEEP-3). Accompanying the Notice of Tentative Determination, DEEP published a draft permit for public comment (the “Draft Permit”) (Exhibit DEEP-4).

During the thirty (30) day period for the submission of written comments to DEEP on the Application following publication of, and in accordance with, the Notice of Tentative Determination, the Applicant, on March 6, 2018, submitted written comments and requests for changes to the Draft Permit. (Exhibit APP-8). While no other comments were received during the comment period as afforded by the Notice of Tentative Determination (Exhibits DEEP-3; DEEP-15), DEEP’s Office of Adjudications, on February 28, 2018, received a petition signed by 25 or more persons requesting a public hearing on the Application. (Exhibits DEEP-15; DEEP-17).

On March 28, 2018, DEEP held a Status Conference (the “Status Conference”) was held, during which the prehearing procedures were established and dates for the hearing were assigned. On behalf of Aquarion, Harold Blinderman, counsel for Aquarion; Kenneth Skov, Manager, Water Resource and Infrastructure Planning, Aquarion; and Peter Galant, P.E., Vice President, Tighe & Bond, were present. On behalf of DEEP Staff, Douglas Hoskins, DEEP Environmental Analyst was present. Members of the public present were: Alicea Charamut, Connecticut Council of Trout Unlimited and Laura Stabell, Saugatuck River Watershed Association.¹ At the Status Conference, a public hearing for the purpose of receiving public comment was scheduled for May 16, 2018, to be continued for the collection of evidence on June 5, 2018 and June 6, 2018 (if needed) (*See* Status Conference Summary, Scheduling Directive, and Notice of Hearing dated April 4, 2018 (the “Status Conference Summary”)).

Subsequent to the Status Conference, DEEP Staff prepared a revised draft permit (the “Revised Draft Permit”) reflecting its responses to Aquarion’s March 6 and March 30, 2018

¹ There were no intervenors to this proceeding; neither the Connecticut Council of Trout Unlimited (including any of its local chapters) nor the Saugatuck River Watershed Association sought to intervene on the Application. (*See* Exhibit APP-9).

comments to the Draft Permit. (Exhibits APP-4; APP-8; APP-10; DEEP-12; DEEP-13; DEEP-15; DEEP-17).

On April 12, 2018, DEEP issued a Notice of Public Hearing on the Application. (Exhibits DEEP-1; DEEP-15). The notice indicated that DEEP would hold a hearing to receive public comment on the Application on May 16, 2018, would continue to accept written comments through May 25, 2018, and would receive testimony and evidence from the Parties and intervenors, if any, on June 5, 2018, and, if needed, on the following day. (Exhibit DEEP-1).

On May 4, 2018, consistent with the Status Conference Summary, the Parties exchanged and submitted respective lists of: legal issues to be resolved at the hearing; proposed witnesses with a summary of each witness's proposed testimony; for each expert witness, a statement of credentials supporting that witness's qualifications as an expert and a list of proposed exhibits.

On May 16, 2018, consistent with the Notice of Public Hearing (Exhibit DEEP-1), the public comment portion of the hearing was held at the Weston Town Hall Meeting Room in Weston, Connecticut. Representatives from Aquarion and DEEP Staff offered brief remarks and presentations. (Exhibits APP-11; DEEP-17; May 16, 2018 Hearing Tr.). During the public comment hearing, following the Parties' remarks, two members of the public queried as to whether DEEP Staff considered the cumulative effects of the proposed diversion, particularly with flows below the Easton Reservoir as relates to Aquarion's Newton Interconnection and the Southeast Fairfield Regional Pipeline. (May 16, 2018 Hearing Tr., pp 23-28). DEEP Staff confirmed that these diversions were considered during its review of Aquarion's Application. (May 16, 2018 Hearing Tr. p 26). Written public comments on the application were accepted by DEEP's Office of Adjudications until May 25, 2018 (DEEP-1; May 16, 2018 Hearing Tr., p 20); none were received.

In advance of the scheduled June 5, 2018 hearing, exhibits previously identified by the parties were exchanged on May 25, 2018. Among its exhibits, the Applicant submitted credentials for Kenneth Skov and Peter Galant (Exhibits APP-1; APP-2) and pre-filed testimony for Daniel Lawrence, Kenneth Skov and Peter Galant (Exhibits APP-3; APP-4; APP-5). DEEP Staff submitted credentials and testimony for Douglas Hoskins. (Exhibits DEEP-15; DEEP-16). On June 1, 2018, the Parties, in advance of the hearing, filed a Stipulation agreeing to the

admission of each other's exhibits as exchanged and submitted on May 25, 2018. The Parties further stipulated that each had no objection to the List of Legal Issues or List of Proposed Witnesses submitted in each party's respective pre-hearing submittals dated May 4, 2018.

On June 5, 2018, consistent with the Notice of Public Hearing (Exhibit DEEP-1), the hearing for the collection of evidence was held at the DEEP Headquarters in Hartford, Connecticut beginning at 10:00 AM. (June 5, 2018 Hearing Tr., p 4). At the hearing, pre-filed testimony from Kenneth Skov (Aquarion), Peter Galant (Tighe & Bond) and Daniel Lawrence (Aquarion) was adopted on behalf of the Applicant (Exhibits APP-3; APP-4; APP-5; June 5, 2018 Hearing Tr., pp 4-9) and pre-filed testimony from Douglas Hoskins on behalf of DEEP Staff was likewise adopted. (Exhibit DEEP-15; June 5, 2018 Hearing Tr., pp 10-11). During the evidentiary hearing, Aquarion confirmed that the proposed diversion will not impact Lake Mohegan. (June 5, 2018 Hearing Tr., p 10).

The hearing was then concluded and the record was closed. (June 5, 2018 Hearing Tr., p 12). Subsequently, on June 28, 2018, the Parties were directed to file post-hearing filings on or before July 20, 2018.

II. Parties

The parties to this proceeding are Aquarion Water Company of Connecticut and DEEP Staff of the Water Planning and Management Division.

III. Project Description

Aquarion seeks to renew and modify its existing water diversion permit, DIV-200502499 (Exhibit DEEP-14), for the transfer of public water supply through the Ridgefield Interconnection, which connects Aquarion's Greater Bridgeport System and Aquarion's Ridgefield System. (Exhibit APP-6). Aquarion's Greater Bridgeport System serves customers in Bridgeport, Easton, Fairfield, Monroe, Redding, Shelton, Stratford, Trumbull, Westport and Wilton. (Exhibit APP-3; APP-6). Additionally, Aquarion's Greater Bridgeport System provides water to Aquarion's Ridgefield System through the Ridgefield Interconnection. (Exhibits APP-3; APP-6). The Ridgefield Interconnection utilizes existing water mains along Route 7 and the

Branchville Pump Station on Route 102 in Ridgefield, and serves over 2,750 consumers in the Town of Ridgefield. (Exhibits APP-3; APP-4; APP-5; APP-6; DEEP-6).

Under its existing water diversion permit, DIV-200502499 (Exhibit DEEP-14), the Applicant is authorized to transfer up to 1.3 mgd of water through the Ridgefield Interconnection. (Exhibits APP-6; DEEP-6; DEEP-14). The Applicant is seeking to transfer up to 1.5 mgd through the Ridgefield Interconnection, a 0.2 mgd increase in the maximum daily transfer capacity to the Ridgefield service area. (Exhibits APP-3; APP-4; APP-5; APP-6; DEEP-6). The requested diversion will occur through already constructed facilities and requires no upgrades or modifications to the Ridgefield Interconnection and associated pumping facilities to support the requested increase in transfer capacity. (Exhibits APP-4; APP-6; DEEP-6).

IV. Site Description

As shown on the Site Location Map, the Point of Interconnection is located at 41.264488°, -73.440028°. (Exhibits APP-6; APP-12). The primary Greater Bridgeport System source of supply to the interconnection is the Hemlocks Reservoir System consisting of the Saugatuck, Aspetuck and Hemlock Reservoirs. (Exhibits APP-3; APP-4; APP-6; DEEP-6). The reservoirs are in the following subregional basins of the Southwest Coast major basin: Saugatuck River (7200); Aspetuck River (7202); and Cricker Brook (7107). (Exhibits APP-6; DEEP-6). The Ridgefield service area is in the following subregional basins of the Southwest Coast, Housatonic and Hudson major basins: Norwalk River (7300); Comstock Brook (7301); Silvermine River (7302); Saugatuck River (7200); and Mill River (7404). (Exhibits APP-6; DEEP-6). The Southwest Coast basin is considered the “donor basin” to the Ridgefield Interconnection. (Exhibits APP-3; APP-6).

V. The Applicant

The Applicant is Aquarion Water Company of Connecticut with a mailing address at 600 Lindley Street, Bridgeport, Connecticut 06606. (Exhibit APP-6).

VI. The Application

The Application has been submitted on the prescribed forms and consists of a completed application form entitled “Permit Application for Programs Administered by the Inland Water

Resource Division” (DEP-IWRD-APP-100) (the “Application Form”) as supplemented by Attachments A through Q (but excluding those attachments that are not required for this diversion application). (Exhibits APP-5; APP-6). These Attachments consist of those required by Part V of the Application Form, including: Attachment A, Executive Summary; Attachment D, Documentation Form for Water Diversion Permit (DEP-IWRD-APP-102), which includes an Environmental Impact Report at D4, a Long-Range Water Conservation Plan at Attachment D10, the Impact on the Greater Bridgeport System at Q3, and a Reservoir Flow Release Evaluation Report at Q6; and Attachment M, Alternatives Assessment. (Exhibit APP-6). The Application is further supplemented by the Applicant’s January 10, 2018 response (Exhibit APP-7) to DEEP’s December 19, 2017 letter of application insufficiency (Exhibit DEEP-11).

STATUTORY AND REGULATORY OVERVIEW

I. Required Information under Conn. Gen. Stat. § 22a-369 and R.C.S.A. § 22a-377(c)-2

Conn. Gen. Stat. § 22a-369 and its implementing regulations, R.C.S.A. § 22a-377(c)-2, provides that a complete water diversion permit application must include the following information on forms prescribed by the DEEP Commissioner:

A. Reasons and Need for the Diversion (Conn. Gen. Stat. §§ 22a-369(1) and (2))

Aquarion seeks authorization to continue operation of the Ridgefield Interconnection and to increase its authorized maximum daily transfer capacity of public water supply through the Ridgefield Interconnection from 1.3 mgd to 1.5 mgd. (Exhibits APP-3; APP-4; APP-5; APP-6; DEEP-6).

Specifically, the proposed diversion is necessary for the following reasons: (i) to discontinue the use and abandonment of low yielding and poor water quality sources; (ii) to meet current demand and projected growth in connection with available local water supply sources; and (iii) to ensure that the Ridgefield System has an adequate margin of safety to provide public water supply and fire protection. (Exhibits APP-3; APP-4; APP-5; APP-6; APP-7; DEEP-6).

The requested maximum daily transfer of 1.5 mgd will provide for future needs of the Ridgefield System without stressing the capacity of the Greater Bridgeport System. (Exhibits APP-4; APP-5; APP-6). In the Application, Aquarion built into its needs analysis a 15% Margin of Safety, as recommended by the Connecticut Department of Public Health. (Exhibits APP-4; APP-6). After consideration of such factors as potential increases or decreases in demand, potential development of new water supply sources, potential losses of sources of supply, lifespan of the interconnection and other considerations, Aquarion concluded that a 1.5 mgd supply would meet the average day and maximum month demands for the requested 25 year duration of the permit (2043). (Exhibits APP-4; APP-5; APP-6; APP-7). The supply needed from the Ridgefield Interconnection to provide a 15% margin of safety in the Ridgefield System on the maximum day of demand is projected to be 1.44 mgd by 2030 and 1.48 mgd by 2060. (Exhibits APP-4; APP-6).

To meet projected water demands over the requested 25 year duration of the water diversion permit and to have operational flexibility to meet projected maximum or peak day demands without all sources running at full capacity, the Application requests a maximum daily transfer of up to 1.5 mgd. (Exhibits APP-4; APP-6). The requested withdrawal is 3% of the Hemlocks Reservoir system's treatment capacity (54.7 mgd) and 4% of its safe yield (41.7 mgd). (Exhibits APP-5; APP-6; DEEP-6).

DEEP Staff concurs that the diversion is needed for the reasons specified. (Exhibits DEEP-6; DEEP-15; DEEP-17).

B. Description of the Existing Water System (Conn. Gen. Stat. § 22a-369(3))

The Application provides a detailed description of the existing water system. (Exhibits APP-5; APP-6). The primary Greater Bridgeport System source of supply to the Ridgefield Interconnection is the Hemlocks Reservoir System consisting of the Saugatuck, Aspetuck and Hemlock Reservoirs. (Exhibits APP-3; APP-4; APP-6; DEEP-6). The reservoirs are in the following subregional basins of the Southwest Coast major basin: Saugatuck River (7200); Aspetuck River (7202); and Cricker Brook (7107). The Ridgefield service area is in the following subregional basins of the Southwest Coast,

Housatonic and Hudson major basins: Norwalk River (7300); Comstock Brook (7301); Silvermine River (7302); Saugatuck River (7200); and Mill River (7404). (Exhibits APP-6; DEEP-6).

C. Locations of Withdrawals and Discharges (Conn. Gen. Stat. § 22a-369(4))

The locations of withdrawal are set forth in the Application. (Exhibits APP-5; APP-6; APP-12; APP-13).

D. Quantity, Frequency and Rate of Water Diversion (Conn. Gen. Stat. § 22a-369(5))

The Applicant seeks a maximum daily transfer capacity of the public water supply through the Ridgefield Interconnection of 1.5 mgd. The diversion would be authorized to operate 24 hours a day, seven days per week, on every day of the year. (Exhibits APP-5; APP-6).

E. Length of Time for Which the Diversion is Sought (Conn. Gen. Stat. § 22a-369(6))

The Applicant seeks a diversion permit for a period of twenty-five (25) years consistent with the allowable duration for such permits. (Exhibit APP-6; *see* R.C.S.A. §22a-377(c)-2(h)). As reflected in its Draft Permit (Exhibit DEEP-4) and Draft Revised Permit (Exhibit DEEP-13), DEEP Staff concurs with this request.

F. Effect of the Proposed Diversion (Conn. Gen. Stat. § 22a-369(7))

The Applicant conducted studies and evaluated potential impacts and effects of the proposed diversion. The Applicant concluded that the proposed diversion will not adversely impact Aquarion's ability to meet the water supply needs and demands of its customers and that the requested diversion will have no material impact on (i) flows downstream of Aquarion's reservoir system; (ii) water quality; (iii) wastewater treatment needs; (iv) flood management; (v) water based recreation; (vi) wetland habitat; (vii) waste assimilation; (viii) agriculture; and (ix) fish and wildlife. (Exhibits APP-5; APP-6).

The Application includes a Reservoir Flow Release Evaluation Report as Attachment Q, Item 6. In the referenced report Aquarion recommends utilizing the Class 3 release

requirements of the Streamflow Standards and Regulations, R.C.S.A. § 26-141b, as the monthly release regime for the reservoirs in the Hemlocks Reservoir System, including low flows. (Exhibit APP-5; Exhibit APP-6). Streamflow releases as described in the Application support downstream DEEP trout management areas. (Exhibit APP-6).

DEEP Staff concurs that there will be no significant impact to source reservoir water levels and the source system (the Greater Bridgeport System) has adequate supply with the acceptable margin of safety factoring in and considering the following: the requested transfer of up to 1.5 mgd; Aquarion's pending Bridgeport to Newtown water diversion permit application; Aquarion's anticipated application for an increase to the southwest Fairfield County Regional Pipeline; future streamflow release volumes; and reactivation of the Housatonic Wellfield. (Exhibit DEEP-6; *see also* Exhibits APP-5; APP-6).

As part of DEEP Staff's technical review, neither the DEEP Fisheries Division nor the Connecticut Department of Public Health identified any concerns based upon their review of the Application. (Exhibits DEEP-6; DEEP-7; DEEP-8). Additionally, DEEP does not anticipate any negative impacts to state listed species. (Exhibits DEEP-6; DEEP-9).

G. Alternatives (Conn. Gen. Stat. § 22a-369(8))

An alternative analysis is provided as Attachment M to the Application. (Exhibit APP-6). As discussed in Attachment M, Aquarion's 1999 application for authorization of the Ridgefield Interconnection established several alternatives for providing adequate supply to the Ridgefield System:

- The Ridgefield Interconnection
- Development of Dean Wellfield
- Development of well on Bennet Pond property
- Interconnection with the City of Danbury
- Development of well on Ullman Manufacturing property
- Development of Cannondale Well

- Filtration of Saugatuck Reservoir
- Filtration of Round Pond Reservoir

The Ridgefield Interconnection was selected as the most feasible option as part of the review of Aquarion's 1999 permit application, and continued use of the Ridgefield Interconnection remains the most feasible alternative for providing the public water supply needs of the Ridgefield service area. (Exhibits APP-6, Attachment M; DEEP-6).

H. Conservation Measures (Conn. Gen. Stat. § 22a-369(9))

Attachment D10 of the Application contains a detailed "Long-Range Water Conservation Plan," which includes relevant excerpts from Aquarion's 2015 Water Conservation Plan. (Exhibit APP-6). Further, Aquarion's conservation efforts are discussed in the Environmental Impact Report (Exhibit APP-6, Attachment D4) as part of the discussion related to R.C.S.A. § 22a-377(c)2(f)(5) and as part of additional information provided to DEEP on January 10, 2018. (Exhibit APP-7).

I. Inter-Basin Transfer/Environmental Impact Report (Conn. Gen. Stat. § 22a-369(10))

Because this proposed diversion involves an inter-basin transfer from the service area associated with Aquarion's Greater Bridgeport System to Aquarion's Ridgefield service area, Aquarion filed an Environmental Impact Report as part of its Application. (Exhibit APP-6, Attachment D4). This report, together with additional information provided to DEEP on January 10, 2018 (Exhibit APP-7) (i) considers the effect of the transfer on present and future water uses in the proposed donor basin; (ii) includes, referencing Attachment Q to the Application; a plan for meeting water supply needs and demands in the donor basin for a minimum of twenty-five years; and (iii) analyzes, referencing Attachment M to the Application, alternatives to an inter-basin transfer of water in lieu of the Ridgefield Interconnection. (Exhibits APP-5; APP-6;).

Based on the foregoing, the Application contains the information required to be provided by the Applicant for DEEP's consideration as part of its water diversion permit renewal application under Conn. Gen. Stat. § 22a-369 of the Water Diversion Policy Act and its implementing

regulations, R.C.S.A. § 22a-377(c)-2. (See Exhibits APP-5; APP-6; APP-7; DEEP-5; DEEP-6; DEEP-7).

II. Statutory and Regulatory Considerations

In deciding whether to issue a diversion permit, the Commissioner must consider all relevant facts and circumstances that include, but are not limited to, those listed in Conn. Gen. Stat. § 22a-373(b) and Conn. Gen. Stat. § 26-310 as well as those listed in R.C.S.A. § 22a-377(c)-2(f) and (h). There is substantial evidence to support issuance of a water diversion permit for the Ridgefield Interconnection to Aquarion in the form of the Revised Draft Permit (Exhibit DEEP-13) based on consideration of each of the substantive issues below:

A. Statutory Factors -- Conn. Gen. Stat. § 22a-373(b) Considerations

i. Effect of the Proposed Diversion on Related Needs for Public Water Supply Including Existing and Projected Uses, Safe Yield and Reservoir Systems and Reservoir and Groundwater Development (Conn. Gen. Stat. § 22a-373(b)(1))

The record supports that the Applicant has fully evaluated the effect of the proposed withdrawal on all flow dependent resource needs within the watershed. The Application and supporting documents demonstrate that the proposed diversion will not have an effect on the adequacy of public water supplies including existing and projected uses, safe yield, reservoir systems and reservoirs, and groundwater development. (Exhibits APP-5; APP-6, including Attachments D4, E, Q3, and Q6;; APP-7; DEEP-3; DEEP-6; DEEP-15; DEEP-17).

ii. Effect of the Proposed Diversion on Existing and Planned Water Uses in the Area Affected Such as Public Water Supplies, Relative Density of Private Wells, Hydropower, Flood Management, Water Based Recreation, Wetland Habitats, Waste Assimilation and Agriculture Development (Conn. Gen. Stat. § 22a-373(b)(2))

The record reflects that the Applicant has fully evaluated the effect of the proposed diversion and confirmed that there is no substantial impact on existing and planned water uses. (Exhibits APP-5; APP-6; APP-7; DEEP-6; DEEP-15; DEEP-17). The diversion will not impact Aquarion's ability to meet the water

supply needs and demands of its users, and will not impact public water supplies, the relative density of private wells, hydropower, flood management, water based recreation, wetland habitat, waste association and agriculture (Exhibits APP-5; APP-6, including Attachment D4; DEEP-6). The proposed diversion will not impact Aquarion's streamflow releases, and will not materially impact flows downstream of Aquarion's reservoirs. (Exhibits APP-5; APP-6; APP-7; May 16, 2018 Hearing Tr. pp 11-12).

iii. Compatibility of the Proposed Diversion With the Policies and Programs of the State of Connecticut Dealing with Long-Range Planning, Management, Allocation and Use of Water Resources (Conn. Gen. Stat. § 22a-373(b)(3))

The diversion is a continuation of current activities. The record demonstrates that Aquarion has considered the effect of the transfer on present and future water uses in the Southwest Coast donor basin, which is the source of supply through the Saugatuck, Aspetuck and Hemlock Reservoirs for the Ridgefield Interconnection. The proposed diversion is compatible with the programs and policies of the State of Connecticut dealing with long-range planning, management, allocation and use of water resources. (Exhibits APP-5; APP-6; APP-7; DEEP-15; DEEP-17).

iv. Relationship of the Proposed Diversion to Economic Development and the Creation of Jobs (Conn. Gen. Stat. § 22a-373(b)(4))

The proposed diversion will assist the Ridgefield System in ensuring adequate supply to support existing and projected residential, commercial and industrial growth and development needs well into the future. (Exhibits APP-3; APP-4; APP-5; APP-6).

v. Effect Of The Proposed Diversion On Existing Water Conditions (Conn. Gen. Stat. § 22a-373(b)(5))

The record establishes that the proposed diversion will not adversely impact water quality in the donor basin. (Exhibits APP-5; APP-6; DEEP-6). The proposed diversion will allow for the discontinued use of and abandonment of low

yielding and poor quality water sources, thereby reducing groundwater withdrawals from public water supply wellfields. (Exhibits APP-5; APP-6).

vi. Effect, Including Thermal Effect, Of The Proposed Diversion On Fish And Wildlife (Conn. Gen. Stat. § 22a-373(b)(6))

The record includes ample evidence that the proposed diversion will not adversely impact, including thermal effect, fish and wildlife habitat. (Exhibits APP-5; APP-6; DEEP-6; DEEP-7; DEEP-9).

vii. Effect Of The Proposed Diversion On Navigation (Conn. Gen. Stat. § 22a-373(b)(7))

The diversion will not result in any impacts to navigation. (Exhibits APP-5; APP-6).

viii. Necessity (Conn. Gen. Stat. § 22a-373(b)(8))

Taking into consideration and giving due regard to the Alternative Assessment (Exhibit APP-6, Attachment M) offered by the Applicant, the water to be diverted is necessary. The record reflects that the Ridgefield Interconnection was previously determined, and continues to be, the most prudent and feasible alternative for meeting the needs of the Ridgefield service area without adverse environmental impact. (Exhibits APP-5; APP-6; DEEP-6).

ix. Effect on Interstate Waters (Conn. Gen. Stat. § 22a-373(b)(9))

The proposed diversion will not affect interstate waters; therefore, this provision is not applicable. (Exhibits APP-5; APP-6).

x. Municipal Interests (Conn. Gen. Stat. § 22a-373(b)(10))

The interests of the municipalities of Ridgefield, Fairfield, Weston, Westport and Easton have been taken into account throughout the application process. The filing of the diversion permit application was announced in legal notices appearing in newspapers with daily circulation in each of these municipalities. (Exhibits APP-5; APP-6; DEEP-6).

B. Statutory Factors -- Conn. Gen. Stat. § 22a-373(c) Considerations

Conn. Gen. Stat. § 22a-373(c) requires the Commissioner to consider: (i) capital expenditures and other resource commitments made prior to July 1, 1982 in connection with the diversion at issue here; and (ii) proposed diversions recommended in a water supply plan in the same manner as proposed diversions not recommended in any such plan.

Notwithstanding that no capital expenditures and other resource commitments were made prior to July 1, 1982 for the Ridgefield Interconnection, the record reflects consideration of all applicable factors. (Exhibits APP-6, Attachment M; DEEP-6; DEEP-14).

The Ridgefield Interconnection is an existing diversion, initially permitted in 1999, constructed in 2001, renewed in 2008, identified in Aquarion's 2015 Water Supply Plan for the Ridgefield System, and described in the Application. (Exhibits APP-6; DEEP-6). An alternatives analysis as required by Conn. Gen. Stat. § 22a-369(8) was included as part of the Application in this matter and considered by DEEP Staff. (Exhibits APP-6; DEEP-6; DEEP-17). No upgrades or modifications to the Ridgefield Interconnection are planned. (Exhibits APP-4; APP-6; DEEP-6).

C. Statutory Factors -- Conn. Gen. Stat. § 26-310 Requirements

Conn. Gen. Stat. § 26-310 requires that "any action authorized, funded or performed by ... [a state] agency ... not threaten the continued existence of any endangered or threatened species or result in the destruction or adverse modification of habitat designated as essential to such species."

The Applicant has not identified any threats to the continued existence of any threatened or endangered species or related habitat. (Exhibits APP-5; APP-6). DEEP's Bureau of Natural Resources, Fisheries Division reviewed the Application and expressed no concerns regarding the continued existence of any endangered or threatened species or result in the destruction or adverse modification of habitat designated as essential to such species in its review. (Exhibits DEEP-6; DEEP-7; DEEP-9; DEEP-17). Additionally,

pursuant to DEEP's review of the Application and the Natural Diversity Data Base ("NDDB") maps and files, there are no anticipated negative impacts to State-listed species. (Exhibits DEEP-6; DEEP-9).

D. Regulatory Factors -- R.C.S.A. § 22a-377(c)-2(f)

Section 377(c)-2(f) states that no permit shall be issued unless the applicant demonstrates that the proposed diversion is consistent with certain state policies:

i. R.C.S.A. § 22a-377(c)-2(f)(1) provides:

The proposed diversion is consistent with the standards, criteria, policies and water quality classifications for ground and surface water adopted and amended under section 22a-426 of the General Statutes.

The Application, which describes in detail the proposed diversion, is consistent with the State's water quality standards. The Application, supplemental materials and supporting testimony demonstrate that the proposed diversion would not have an effect on the quality of the State's waters for water supply, aquatic life, wildlife, wildlife habitats, and recreational uses. (Exhibits APP-5; APP-6; APP-7).

ii. R.C.S.A. § 22a-377(c)-2(f)(2) provides:

The proposed diversion is consistent with the policies and requirements of chapter 440 of the General Statutes and regulations thereunder.

The consistency of the proposed diversion with the State's Wetlands and Watercourses standards is discussed throughout the record in this matter, including in particular Attachment D4 to the Application. (Exhibits APP-5; APP-6; APP-7). The proposed diversion will not impact wetland resources and is consistent with Chapter 440 of the General Statutes and corresponding regulations.

iii. R.C.S.A. § 22a-377(c)-2(f)(3) provides:

The proposed diversion is designed and will be carried out so as to minimize and, if possible, eliminate flooding and flood hazards, and to be consistent with

the policies and requirements of Chapter 476a of the General Statutes and regulations thereunder.

The consistency of the diversion with the State's flood management standards is discussed in Attachment D4 to the Application and elsewhere as part of the record in this matter. (Exhibits APP-5; APP-6). Based on review of the record in this matter, the proposed diversion will not alter flooding or flood hazards and is consistent with DEEP's flood management standards and regulations.

iv. R.C.S.A. § 22a-377(c)-2(f)(4) provides:

If it is within the, or may significantly affect, the coastal area as defined by subsection (a) of section 22a-94 of the General Statutes, the proposed diversion is consistent with, the goals and policies of Chapter 444 of the General Statutes.;

The proposed activity is not located within the coastal area. Therefore, this section does not apply. (Exhibits APP-5; APP-6).

v. R.C.S.A. § 22a-377(c)-2(f)(5) provides:

The proposed diversion is consistent with the relevant policies of the State Plan of Conservation and Development adopted under sections 16a-24 to 16a-32, inclusive, of the General Statutes:

Pursuant to the passage of Public Act 05-205, which amended Conn. Gen. Stat. §22a-366, this regulatory requirement no longer applies. Notwithstanding Public Act 05-205, the proposed water diversion is consistent with relevant policies of the State Plan of Conservation and Development. (Exhibit APP-6). The diversion utilizes existing infrastructure and does not involve any land use changes; allows for the discontinued use and abandonment of poor quality water sources; is illustrative of Aquarion's effort to promote integrated planning across all levels of government by sharing resources and developing interconnections between its water systems to meet regional water needs, within the limits of available supply; and supports economic growth by meeting the Ridgefield System's current and future growth needs. (Exhibits APP-5; APP-6).

vi. R.C.S.A. § 22a-377(c)-2(h)(1) provides:

The Commissioner shall establish the duration of each diversion permit in light of all relevant factors, including but not limited to:

(A) the extent to which the waters affected by such permit have already been allocated;

(B) the uses to which such previously-allocated waters are put, including non-consumptive uses;

(C) the need for water system rehabilitation or for an effective water conservation program; and

(D) the factors set out in this section and sections 22a-369 and 22a-373 of the General Statutes.

In no event shall a permit authorize any diversion for a period greater than twenty-five years...

Aquarion has requested, and has provided the information necessary to support, a 25 year permit term. (Exhibits APP-5; APP-6). DEEP Staff, based upon its review of the Application and supporting materials, has proposed the issuance of a water diversion permit to Aquarion for a permit term of 25 years. (Exhibits DEEP-4; DEEP-13; DEEP-15). DEEP Staff's review of the materials in the record considered all relevant factors and the evidence supports the conclusion reached.

**THE DRAFT PERMIT, REVISED DRAFT PERMIT AND PROPOSED PERMIT
CONDITIONS**

DEEP Staff has proposed the issuance of a water diversion permit to the Applicant authorizing Aquarion to divert waters of the State through the Ridgefield Interconnection in accordance with the Application subject to certain conditions. (Exhibits DEEP-4; DEEP-13) Several Draft Permit conditions (Exhibit DEEP-4) were carried over and/or modified to reflect present circumstances from the Applicant's existing water diversion permit DIV-200502499 (Exhibit DEEP-14), including but not limited to Conditions 3, 5, and 6:

Condition 3: Leak Detection. Every five years, based upon the schedule below, the permittee shall conduct a system-wide comprehensive leak detection survey of the Greater Bridgeport and Ridgefield systems water distribution system and repair any leaks found. The leak detection survey shall follow standards and criteria contained within AWWA Manual M36 as may be amended or revised. No later than January 30, of the following year, the permittee shall report to the Commissioner of all actions taken pursuant to the leak detection survey, including the number of mile of main surveyed, survey techniques and methodology, leaks found and repairs made. A copy of this record shall be included in the Annual Report to the Commissioner required by Condition 13 of this permit. The permittee shall undertake such leak detection surveys on or before December 31, 2022; December 31, 2027; December 31, 2032; December 31, 2037; and December 31, 2042.

Condition 5: Reservoir Water Surface Elevation Monitoring. The permittee shall take water surface elevation readings from Saugatuck Reservoir, Aspetuck Reservoir and Hemlocks Reservoir on a daily basis. If the permittee utilizes remote data logging devices to collect the water surface elevations, the permittee shall download the data at least once per week to ensure that the device is working properly. In the event of device malfunction or breakage, the permittee shall repair or replace such devices as soon as reasonably practicable, but in no case longer than in 10 days. The permittee shall record the water surface elevation of the three reservoirs and the date and time of the reading. Based upon the reservoir withdrawal monitoring and reservoir water surface elevation monitoring the permittee shall calculate the daily inflow to each reservoir. A copy of the daily reservoir water surface elevation records, and the daily withdrawal record as required by Condition 4 of this permit shall be included in the Annual Report to the Commissioner required by Condition 13 of this permit.

Condition 6: Reservoir Discharge Monitoring. The permittee shall monitor the daily total discharge (spillage/leakage/blowoff/streamflow release) from: (a) the Saugatuck Reservoir to the Saugatuck River; (b) the Aspetuck Reservoir to the Aspetuck River; and (c) the Hemlocks Reservoir to Cricker Brook. Upon request of the Commissioner, the permittee shall submit rating curves for any gages or weirs utilized for the daily flow monitoring to demonstrate their accuracy. Stream gaging, calibration of the gages, weirs and other approved structures, and measurements shall conform to the procedures described in the U.S. Geological Survey, Techniques for Water-Resources Investigations, Book 3, Chapter A6, R.W. Carter and Jacob Davidian, 1968; Chapter A7, T. J. Buchanan and W.P. Somers, 1968; and Chapter A8, T.J. Buchanan and W.P. Somers, 1969 ("USGS standards"). The permittee shall maintain all gages, weirs or other approved monitoring structures for the duration of the permit, including re-calibration and development of a new rating curve, as field conditions warrant. A copy of the daily reservoir discharge flows shall be included in the Annual Report to the Commissioner required by Condition 13 of this permit.

(Exhibit DEEP-4).

In the Draft Permit, DEEP Staff also proposed Conditions 10, 11 and 12, which are wholly new conditions to provide additional environmental assurance. (Exhibit DEEP-4; DEEP-15). Conditions 10, 11, and 12 provide as follows:

Condition 10: Ridgefield System Wells. The permittee shall submit a summary of any action taken relative to discontinuance, abandonment, or reactivation of any Aquarion Ridgefield System water supply well as part of their annual report required by Special Condition 13 of this permit.

Condition 11: Housatonic Wellfield. Within ten (10) years of the issuance of this permit, the permittee shall activate their registered Housatonic Wellfield, and shall make all prudent and feasible efforts to achieve a minimum daily wellfield production of 16.6 million gallons per day. The permittee shall provide a report describing efforts to complete this activation as part of their annual report required by Special Condition 13 of this permit.

Condition 12: Reservoir Flow Releases. Downstream flow releases from the Saugatuck, Aspetuck and Hemlock Reservoirs shall be made in conformance with any and all applicable requirements of the Connecticut Stream Flow Standards and Regulations, Section 26-141b-1 to 26-141b-8, *excluding* Section 26-141b-6(c), of the Regulations of Connecticut State Agencies.

(Exhibit DEEP-4).

In written comments dated March 6, 2018, Aquarion provided comments related to Conditions 5, 11, 12, 19 and 24 of the Draft Permit. (Exhibits APP-4; APP-8). Of note, Aquarion requested revision of: (i) Condition 5 to remove the requirement for daily inflow calculations; (ii) Condition 11 which required Aquarion to activate the Housatonic Wellfield with a minimum daily production of 16.6 mgd within 10 years of issuance of the diversion permit; and (iii) Condition 12 to include the public water supply provision of R.C.S.A. § 16-141b-b(c) that allows for short-term reduced Stream Flow releases to meet community needs. Aquarion also requested the removal of Conditions 19 and 24 as unrelated to the activities authorized by the existing and proposed permit. (Exhibits APP-4; APP-8).

With respect to the Applicant's March 6, 2018 comment letter (Exhibit APP-8), DEEP Staff responded in writing on March 21, 2018. (Exhibits APP-4; DEEP-12). DEEP Staff addressed and agreed with Aquarion's comments regarding Condition 5 that the resulting inflow calculation would not be useful given the downstream release required by proposed Condition 12. (Exhibits APP-4; DEEP-12). In addition, DEEP Staff, in agreement with Aquarion's comments that such

conditions were unnecessary given the nature of the diversion, removed in their entirety Conditions 19 and 24.² (Exhibits APP-4; DEEP-12). With respect to Condition 11, DEEP Staff requested additional information. (Exhibit DEEP-12). With respect to Condition 12, DEEP Staff advised that it believed that this condition was appropriate and that any expressed concerns by Aquarion could be addressed through the variance provisions of the Stream Flow regulations. (Exhibit DEEP-12).

On March 30, 2018, Aquarion provided additional information in connection with the minimum daily wellfield production capacity associated with Condition 11. (Exhibits APP-4; APP-10). Subsequently, DEEP prepared the Revised Draft Permit (Exhibit DEEP-13) reflecting its March 21, 2018 responses to Aquarion and revising the specified minimum daily production capacity in Condition 11 from 16.6 mgd to 11.58 mgd. The Revised Draft Permit reflects the removal of Conditions 19 and 24 from the Draft Permit and the modification of Condition 11 to include the revised wellfield production value as further clarified by Aquarion. (Exhibits APP-4; APP-10; DEEP-13; DEEP-15).

As revised, Conditions 5 and 11 provide as follows:

² Condition 19 stated that: “Unconfined instream work is limited to the period June 1 through September 30. Confinement of a work area by cofferdam techniques using sand bag placement, sheet pile installation (vibration method only), “portadam”, or similar confinement devices is allowed at any time of the year unless specifically prohibited by a permit condition. The removal of such confinement devices is allowed any time of the year unless specifically prohibited by a permit condition. Once a work area has been confined, in-water work within the confined area is allowed any time of the year. The confinement technique used shall completely isolate and protect the confined area from all flowing water. The use of silt boom/curtain or similar technique as a means for confinement is prohibited.” (Exhibit DEEP-4).

Condition 24 stated that: “The storage of any materials at the site which are buoyant, hazardous, flammable, explosive, soluble, expansive, radioactive, or which could in the event of a flood be injurious to human, animal or plant life, below the elevation of five-hundred (500) year flood is prohibited. Any other material or equipment stored at the site below said elevation by the permittee or the permittee’s contractor must be firmly anchored, restrained or enclosed to prevent flotation. The quantity of fuel stored below such elevation for equipment used at the site shall not exceed the quantity of fuel that is expected to be used by such equipment in one day.” (Exhibit DEEP-4).

Condition 5: Reservoir Water Surface Elevation Monitoring. The permittee shall take water surface elevation readings from Saugatuck Reservoir, Aspetuck Reservoir and Hemlocks Reservoir on a daily basis. If the permittee utilizes remote data logging devices to collect the water surface elevations, the permittee shall download the data at least once per week to ensure that the device is working properly. In the event of device malfunction or breakage, the permittee shall repair or replace such devices as soon as reasonably practicable, but in no case longer than in 10 days. The permittee shall record the water surface elevation of the three reservoirs and the date and time of the reading. A copy of the daily reservoir water surface elevation records, and the daily withdrawal record as required by Condition 4 of this permit shall be included in the Annual Report to the Commissioner required by Condition 13 of this permit.

Condition 11: Housatonic Wellfield. Within ten (10) years of the issuance of this permit, the permittee shall activate their registered Housatonic Wellfield, and shall make all prudent and feasible efforts to achieve a minimum daily wellfield production of 11.58 million gallons per day. The permittee shall provide a report describing efforts to complete this activation as part of their annual report required by Special Condition 13 of this permit.

(Exhibit DEEP-13).

The Parties have reviewed the conditions contained in the proposed Revised Draft Permit and have no objection to their inclusion in the final permit. The Revised Draft Permit, as with the Draft Permit, contains a twenty-five (25) year term. (Exhibits DEEP-4; DEEP-13).

PROPOSED CONCLUSIONS OF LAW AND DECISION

I. Jurisdiction

Conn. Gen. Stat. § 22a-368(b) provides, in relevant part:

... no person or municipality shall, after July 1, 1982, commence to divert water from the waters of the state without first obtaining a permit for such diversion from the [C]ommissioner [of the DEEP].

The Commissioner is empowered pursuant to Conn. Gen. Stat. § 22a-369 to issue water diversion permits and the Applicant has applied for such a permit in this case. The Applicant has satisfied all standing requirements and, accordingly, the Commissioner has subject matter jurisdiction as to this matter.

II. Statutory and Regulatory Requirements

A. Application Contents

Conn. Gen. Stat. § 22a-369 requires an applicant for a water diversion permit to submit such application on forms prescribed by the Commissioner and with information that the Commissioner deems necessary to fulfill the purposes of the Connecticut Water Diversion Policy Act, Conn. Gen. Stat. § 22a-365 et seq. The application must, at a minimum, contain the information specified in Conn. Gen. Stat. § 22a-369 and in the implementing regulations, R.C.S.A. § 22a-377(c)-2). The Applicant submitted the Application on the appropriate form prescribed by the Commissioner, DEEP-IWRD-APP-100 (Exhibits APP-5; APP-6), and, following requests for additional information and the timely submittal of such information, DEEP Staff determined that the Application was complete, as required by Conn. Gen. Stat. § 22a-371. (Exhibits DEEP-6; DEEP-15; DEEP-17). Based on the record, the Application contains the information required pursuant to applicable law.

B. Procedural Requirements

Based on the record, the procedural requirements of Conn. Gen. Stat. §§ 22a-371, and 22a-372 have been fulfilled. (Exhibits APP-5; APP-6, Attachment Q; APP-7; DEEP-1; DEEP-2; DEEP-3; DEEP-5; DEEP-6; DEEP-15; DEEP-17).

C. Standards for Issuing the Permit

Conn. Gen. Stat. § 22a-373 sets forth certain criteria that must be considered in rendering a decision on a diversion permit. R.C.S.A. § 22a-377(c)-2(f) sets forth additional substantive matters that must be considered. As set forth in the Findings of Fact, the record reflects that substantial evidence has been presented on the record relevant to each of the substantive matters that must be considered. Based upon the record, the Applicant has demonstrated that:

- The proposed diversion will not have an adverse impact on needs for public water supply, including existing and projected uses, safe yield of reservoir systems and reservoir and groundwater development;

- The proposed diversion will not have an adverse impact on existing and planned water uses in the area affected, such as public water supplies, relative density of private wells, hydropower, flood management, water-based recreation, wetland habitats, waste assimilation and agriculture;
- The proposed diversion is compatible with the policies and programs of the state of Connecticut, as adopted or amended, dealing with long-range planning, management, allocation and use of the water resources of the state;
- The relationship of the proposed division to economic development and the creation of jobs is positive;
- The proposed diversion will not have an adverse impact on the existing water conditions, with due regard to groundwater availability, watershed characterization, potential evapo-transpiration conditions, and water quality;
- There will be no adverse impact, including thermal effect, on fish and wildlife as a result of flow reduction, alteration or augmentation caused by the proposed diversion;
- There will be no adverse effect on navigation from the proposed diversion;
- The water to be diverted is necessary for the Applicant to use the Ridgefield Interconnection to meet public water needs and, considering all of the alternatives, the continued use of the Ridgefield Interconnection advanced in the Application is the most feasible and prudent alternative;
- Since the proposed diversion will not affect interstate waters, it will not be inconsistent with actions taken by the Attorney General pursuant to Conn. Gen. Stat. §§ 3-126 or 3-127;
- The diversion is consistent with the interests of the host municipality;
- The proposed diversion is consistent with the standards, criteria, policies, and water quality classifications for ground and surface water adopted and amended under Conn. Gen. Stat. § 22a-426;
- The proposed diversion is consistent with the applicable policies and requirements of Chapter 440 of the General Statutes and regulations thereunder;

- The proposed diversion is designed and will be carried out so as to minimize and, if possible, eliminate flooding and flood hazards, and to be consistent with the policies and requirements of Chapter 476a of the General Statutes and regulations thereunder; and
- The proposed diversion is not within and will not affect the coastal area as defined by Conn. Gen. Stat. § 22a-94(a).

D. Permit and Permit Conditions

The Applicant provided comments to DEEP Staff regarding the preliminary draft of the permit. (Exhibits APP-8; APP-10). As a result of these comments, DEEP Staff revised the Draft Permit to address certain of the Applicant's comments. (Exhibit DEEP-13). The Revised Draft Permit meets all the statutory requirements and contains provisions that are sufficiently protective of the environment. The Applicant has not objected to the Revised Draft Permit's terms and conditions. Accordingly, the water diversion permit should be issued in its current form and wording except as may be needed to correct typographical errors, if any exist.

E. Conclusion and Recommendation

The Applicant has demonstrated by a preponderance of the evidence presented that its Application and the Revised Draft Permit comply with all applicable statutory and regulatory requirements. Accordingly, the Revised Draft Permit, attached hereto as Attachment A, should be issued as a final permit.

AGREEMENT

Based on the foregoing, the undersigned hereby agree to the granting of a permit subject to the conditions stated in Exhibit DEEP-13, the Revised Draft Permit, attached hereto.

AQUARION WATER COMPANY OF
CONNECTICUT

By Harold Blinderman

Harold Blinderman
Day Pitney LLP
Its Attorneys
242 Trumbull Street
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(860)275-0100

DEPARTMENT OF ENERGY &
ENVIRONMENTAL PROTECTION, INLAND
WATER RESOURCES DIVISION

By Douglas Hoskins

Connecticut Department of Energy and
Environmental Protection
Water Planning and Management Division
Water Protection and Land Reuse Bureau
79 Elm Street
Hartford, CT 06106-5127

ATTACHMENT A
Revised Draft Permit

WATER DIVERSION PERMIT (Revised Draft)

Permittee: Aquarion Water Company of Connecticut
600 Lindley Street
Bridgeport, CT 06606

Attn: Ken Skov

Permit No: DIVC-201709173

Town: Ridgefield, Fairfield, Weston, Westport, Easton

Project: Renewal and modification of Bridgeport to Ridgefield interconnection permit
DIV-200502499

Waters: Saugatuck Reservoir, Saugatuck River, Aspetuck Reservoir, Aspetuck River,
Hemlock Reservoir, Cricker Brook, Mill River

Pursuant to Connecticut General Statutes Section 22a-368, the Commissioner of Energy and Environmental Protection (“Commissioner”) hereby grants a permit to Aquarion Water Company of Connecticut (“the Permittee”) to conduct regulated activities associated with the transfer of public water supply from Aquarion Water Company’s Greater Bridgeport System to their Ridgefield System in the vicinity of Route 7 at the Ridgefield/Wilton town boundary (“the site”). The purpose of said activities is to provide adequate public water supply and operational flexibility to the Ridgefield System.

AUTHORIZED ACTIVITY

Specifically, the permittee is authorized to: transfer a maximum of 1.5 million gallons per day from Aquarion Water Company’s Greater Bridgeport System to their Ridgefield System utilizing existing water mains along Route 7 and the Branchville Pump Station.

All activities shall be conducted in accordance with plans entitled: “*Ridgefield Systems / Aquarion Water Company of Connecticut / Ridgefield, Redding, Wilton, Weston, Easton, Westport and Fairfield, Connecticut*” prepared by Tighe & Bond, dated October 2017, submitted as a part of the application.

This authorization constitutes the licenses and approvals required by Section 22a-368 of the Connecticut General Statutes.

The permittee's failure to comply with the terms and conditions of this permit shall subject the permittee, including the permittee's agents or contractor(s) to enforcement actions and penalties as provided by law.

This authorization is subject to the following conditions:

CONDITIONS

- 1. Metering of Transfers.** The permittee shall maintain the totalizing flow meter(s) currently used to measure the total amount of water transferred from the Greater Bridgeport System to the Ridgefield System as authorized herein, and shall for the duration of this authorization continuously operate and maintain such meter(s) in good working order. In the event of meter malfunction or breakage, the permittee shall repair or replace such meter within 72 hours
- 2. Daily Transfer Record.** The permittee shall maintain a daily record of the meter readings indicating the total volume of water in gallons transferred from the Greater Bridgeport System to the Ridgefield System that day. The daily record shall also record the hours of operation, the time of meter readings, and denote and explain any instances in which the diversion of water exceeded the authorized withdrawal limitation(s) specified in this permit. A copy of the daily record of transfers shall be included in the Annual Report to the Commissioner required by Condition 13 of this permit.
- 3. Leak Detection.** Every five years, based upon the schedule below, the permittee shall conduct a system-wide comprehensive leak detection survey of the Greater Bridgeport and Ridgefield systems water distribution system and repair any leaks found. The leak detection survey shall follow standards and criteria contained within AWWA Manual M36 as may be amended or revised. No later than January 30, of the following year, the permittee shall report to the Commissioner of all actions taken pursuant to the leak detection survey, including the number of mile of main surveyed, survey techniques and methodology, leaks found and repairs made. A copy of this record shall be included in the Annual Report to the Commissioner required by Condition 13 of this permit. The permittee shall undertake such leak detection surveys on or before December 31, 2022; December 31, 2027; December 31, 2032; December 31, 2037; and December 31, 2042.
- 4. Reservoir Withdrawal Monitoring.** The permittee shall record the total volume of water withdrawn from Saugatuck Reservoir, Aspetuck Reservoir and Hemlocks Reservoir on a daily basis. The permittee shall maintain records of the total amount to water withdrawn each day for public water supply purposes and shall for the duration of this authorization continuously operate and maintain any such meters and other devices necessary for recording daily water withdrawals in good working order. In the event of meter malfunction or breakage, the permittee shall repair or replace such meters as soon

as reasonable practicable, but in no case longer than in 30 days. The permittee shall record the total volume withdrawn in gallons, the date and time of the reading.

5. **Reservoir Water Surface Elevation Monitoring.** The permittee shall take water surface elevation readings from Saugatuck Reservoir, Aspetuck Reservoir and Hemlocks Reservoir on a daily basis. If the permittee utilizes remote data logging devices to collect the water surface elevations, the permittee shall download the data at least once per week to ensure that the device is working properly. In the event of device malfunction or breakage, the permittee shall repair or replace such devices as soon as reasonably practicable, but in no case longer than in 10 days. The permittee shall record the water surface elevation of the three reservoirs and the date and time of the reading. A copy of the daily reservoir water surface elevation records, and the daily withdrawal record as required by Condition 4 of this permit shall be included in the Annual Report to the Commissioner required by Condition 13 of this permit.
6. **Reservoir Discharge Monitoring.** The permittee shall monitor the daily total discharge (spillage/leakage/blowoff/streamflow release) from: (a) the Saugatuck Reservoir to the Saugatuck River; (b) the Aspetuck Reservoir to the Aspetuck River; and (c) the Hemlocks Reservoir to Cricker Brook. Upon request of the Commissioner, the permittee shall submit rating curves for any gages or weirs utilized for the daily flow monitoring to demonstrate their accuracy. Stream gaging, calibration of the gages, weirs and other approved structures, and measurements shall conform to the procedures described in the U.S. Geological Survey, Techniques for Water-Resources Investigations, Book 3, Chapter A6, R.W. Carter and Jacob Davidian, 1968; Chapter A7, T. J. Buchanan and W.P. Somers, 1968; and Chapter A8, T.J. Buchanan and W.P. Somers, 1969 ("USGS standards"). The permittee shall maintain all gages, weirs or other approved monitoring structures for the duration of the permit, including re-calibration and development of a new rating curve, as field conditions warrant. A copy of the daily reservoir discharge flows shall be included in the Annual Report to the Commissioner required by Condition 13 of this permit.
7. **Meter Calibration and Reporting.** The permittee shall annually test and calibrate each source meter to within two percent accuracy as shown through a post-calibration test. The permittee shall maintain a record of the accuracy and calibration test(s) along with supporting documentation and certifications. The permittee shall make a copy of said records available to the Commissioner or the Commissioner's designee immediately upon request.
8. **Long-range Water Conservation Plan.** The permittee shall implement its Long-range Water Conservation Plan, as described in the permittee's application, and in accordance with the permittee's Water Supply Plan as approved pursuant to CGS Section 25-32d and any amendments or updates thereto. The permittee shall maintain a summary of all actions taken each year pursuant to the Long-range Water Conservation Plan and a

description of the estimated or actual water savings achieved. A copy of this summary shall be included in the Annual Report to the Commissioner required by Condition [#x] of this permit.

9. **Record Keeping Requirements.** Except as provided below, or as otherwise specified in writing by the commissioner, all information required under this permit shall be retained at the subject site, or be readily available on request. The permittee shall maintain a copy of this permit on site at all times. The permittee shall retain copies of all records and reports required by this permit; and records of all data used to compile these reports for a period of at least ten years from the date such data was generated or report created, whichever is later.
10. **Ridgefield System Wells.** The permittee shall submit a summary of any action taken relative to discontinuance, abandonment, or reactivation of any Aquarion Ridgefield System water supply well as part of their annual report required by Special Condition 13 of this permit.
11. **Housatonic Wellfield.** Within ten (10) years of the issuance of this permit, the permittee shall activate their registered Housatonic Wellfield, and shall make all prudent and feasible efforts to achieve a minimum daily wellfield production of 11.58 million gallons per day. The permittee shall provide a report describing efforts to complete this activation as part of their annual report required by Special Condition 13 of this permit.
12. **Reservoir Flow Releases.** Downstream flow releases from the Saugatuck, Aspetuck and Hemlock Reservoirs shall be made in conformance with any and all applicable requirements of the Connecticut Stream Flow Standards and Regulations, Section 26-141b-1 to 26-141b-8, *excluding* Section 26-141b-6(c), of the Regulations of Connecticut State Agencies.
13. **Annual Reporting.** The permittee shall submit by January 30 of each year, for the duration of this authorization, an Annual Report for the preceding calendar year. The Annual Report shall be certified in accordance with General Condition 12 of this permit and shall contain the following:
 - a. a copy of the record of daily withdrawals and hours operated as required by Condition 2 of this permit;
 - b. a copy of any leak detection survey record as required by Condition 3 of this permit;
 - c. a copy of the daily reservoir water surface elevation records, and the daily withdrawal record as required by Condition 5 of this permit;
 - d. a copy of the daily reservoir discharge flows as required by Condition 6 of this permit;
 - e. a copy of the summary of all actions taken each year pursuant to the Long-range Water Conservation Plan as required by Condition 8 of this permit;

- f. a copy of the summary of any action taken relative to discontinuance, abandonment, or reactivation of any Aquarion Ridgefield System water supply well as required by Condition 10 of this permit;
 - g. a report describing efforts to complete activation of the Housatonic Wellfield as required by Condition 11 of this permit; and
 - h. denotation and explanation of any instances of violation of the authorized withdrawal limitation(s) or any other condition of this authorization.
14. **Other Restrictions.** The Commissioner shall have the right to restrict the diversion authorized in this permit at any time the Commissioner in his judgment determines: a) a declared local, regional or state-wide drought necessitates restriction or reduction of water uses, or b) the continuation of the diversion would have an adverse effect on water quality, fisheries resources, aquatic habitat or public health.
15. **Expiration.** This permit shall expire on [25 years].
16. **Construction Commencement and Completion.** If construction of any structures or facilities authorized herein is not completed within three years of issuance of this permit or within such other time as may be provided by this permit, or if any activity authorized herein is not commenced within three years of issuance of this permit or within such other time as may be provided by this permit, this permit shall expire three years after issuance or at the end of such time as may be authorized by the Commissioner.
17. **Notification of Project Initiation.** The permittee shall notify the Commissioner in writing two weeks prior to: (A) commencing construction or modification of structures or facilities authorized herein; and (B) initiating the diversion authorized herein.
18. **De minimis Alteration.** The permittee may not make any alterations, except de minimis alterations, to any structure, facility, or activity authorized by this permit unless the permittee applies for and receives a modification of this permit in accordance with the provisions of section 22a-377(c)-2 of the Regulations of Connecticut State Agencies. Except as authorized by subdivision (5) of section 22a-377(b)-1(a) of the Regulations of Connecticut State Agencies, the permittee may not make any de minimis alterations to any structure, facility, or activity authorized by this permit without written permission from the Commissioner. A de minimis alteration means an alteration which does not significantly increase the quantity of water diverted or significantly change the capacity to divert water.
19. **Maintenance of Structures.** All structures, facilities, or activities constructed, maintained, or conducted pursuant hereto shall be consistent with the terms and conditions of this permit, and any structure, facility or activity not specifically authorized by this permit, or exempted pursuant to section 22a-377 of the General Statutes or section 22a-377(b)-1 of the Regulations of Connecticut State Agencies, or otherwise exempt

pursuant to other General Statutes, shall constitute a violation hereof which may result in modification, revocation or suspension of this permit or in the institution of other legal proceedings to enforce its terms and conditions.

Unless the permittee maintains in optimal condition any structures or facilities authorized by this permit, the permittee shall remove such structures and facilities and restore the affected waters to their condition prior to construction of such structures or facilities.

20. **Accuracy of Documentation.** In issuing this permit, the Commissioner has relied on information provided by the permittee. If such information was false, incomplete, or misleading, this permit may be modified, suspended or revoked and the permittee may be subject to any other remedies or penalties provided by law.
21. **Best Management Practices & Notification of Adverse Impact.** In constructing or maintaining any structure or facility or conducting any activity authorized herein, or in removing any such structure or facility under condition 5 hereof, the permittee shall employ best management practices to control storm water discharges, to prevent erosion and sedimentation, and to otherwise prevent pollution of wetlands and other waters of the State. Best Management Practices include, but are not limited, to practices identified in the *Connecticut Guidelines for Soil Erosion and Sediment Control* as revised, 2004 *Connecticut Stormwater Quality Manual*, Department of Transportation's *ConnDOT Drainage Manual* as revised, and the Department of Transportation Standard Specifications as revised.

The permittee shall immediately inform the Commissioner of any adverse impact or hazard to the environment which occurs or is likely to occur as the direct result of the construction, maintenance, or conduct of structures, facilities, or activities authorized herein.

22. **Reporting of Violations.** The permittee shall, no later than 48 hours after the permittee learns of a violation of this permit, report same in writing to the Commissioner. Such report shall contain the following information:
- a. the provision(s) of this permit that has been violated;
 - b. the date and time the violation(s) was first observed and by whom;
 - c. the cause of the violation(s), if known
 - d. if the violation(s) has ceased, the duration of the violation(s) and the exact date(s) and times(s) it was corrected;
 - e. if the violation(s) has not ceased, the anticipated date when it will be corrected;
 - f. steps taken and steps planned to prevent a reoccurrence of the violation(s) and the date(s) such steps were implemented or will be implemented;

- g. the signatures of the permittee and of the individual(s) responsible for actually preparing such report, each of whom shall certify said report in accordance with condition 12 of this permit.
23. **Permit Transfer.** This permit is not transferable without the prior written consent of the Commissioner.
24. **Contractor Notification.** The permittee shall give a copy of this permit to the contractor(s) who will be carrying out the activities authorized herein prior to the start of construction and shall receive a written receipt for such copy, signed and dated by such contractor(s). The permittee's contractor(s) shall conduct all operations at the site in full compliance with this permit and, to the extent provided by law, may be held liable for any violation of the terms and conditions of this permit.
25. **Certification of Documents.** Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this permit shall be signed by the permittee or a responsible corporate officer of the permittee, a general partner of the permittee, and by the individual or individuals responsible for actually preparing such document, each of whom shall certify in writing as follows:
- “I have personally examined and am familiar with the information submitted in this document and all attachments thereto and I certify that based on reasonable investigation, including my inquiry of the individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that a false statement in the submitted information may be punishable as a criminal offense in accordance with Section 22a-6 of the General Statutes, pursuant to Section 53a-157b and in accordance with any other applicable statute.”
26. **Submission of Documents.** Any document or notice required to be submitted to the Commissioner under this permit shall, unless otherwise specified in writing by the Commissioner, be directed to:

Director
Water Planning and Management Division
Department of Energy and Environmental Protection
79 Elm Street
Hartford, CT 06106-5127

The date of submission to the Commissioner of any document required by this permit shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this permit, including but not limited to notice of approval or disapproval on any document or other action, shall be the date such notice is personally

delivered or the date three days after it is mailed by the Commissioner, whichever is earlier. Except as otherwise specified in this permit, the word "day" means any calendar day. Any document or action which is required by this permit to be submitted or performed by a date which falls on a Saturday, Sunday or legal holiday shall be submitted or performed by the next business day thereafter.

27. **Rights.** This permit is subject to and does not derogate any rights or powers of the State of Connecticut, conveys no property rights or exclusive privileges, and is subject to all public and private rights and to all applicable federal, state, and local law. In constructing or maintaining any structure or facility or conducting any activity authorized herein, the permittee may not cause pollution, impairment, or destruction of the air, water, or other natural resources of this State. The issuance of this permit shall not create any presumption that this permit should be renewed.

Issued by the Commissioner of Energy and Environmental Protection on:

Date

Robert E. Kaliszewski
Deputy Commissioner

CERTIFICATE OF SERVICE

I, Harold M. Blinderman, hereby certify that the foregoing was sent via electronic mail and hand delivered on July 20, 2018 to:

Brendan Schain
Hearing Officer
Office of Adjudications
Connecticut Department of Environmental Protection
79 Elm Street
Hartford, Connecticut 06106
brendan.schain@ct.gov

Douglas Hoskins
Connecticut Department of Energy and Environmental Protection
Water Planning and Management Division
79 Elm Street
Hartford, Connecticut 06106
douglas.hoskins@ct.gov

with a courtesy copy sent via e-mail to:

Alicea Charamut
alicea@cttrout.org

Laura Stabell
laura.rebell@gmail.com



Harold M. Blinderman

S E R V I C E L I S T

In the matter of Aquarion
Application No.: DIVC-201709173

PARTY

REPRESENTED BY

The Applicant

Aquarion Water Company of Connecticut
600 Lindley St.
Bridgeport, CT 06606

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242 Trumbull St.
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Department of Energy and Environmental Protection

Water Planning and Management Division
Bureau of Water Protection and Land Reuse

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