

Samuel Alexander

From: Rivers Alliance of CT <rivers@riversalliance.org>
Sent: Saturday, July 23, 2016 7:18 PM
To: Bavery@HazardvilleWater.com; 'dphwucc@ct.gov.'; 'dbanker@themdc.com.'; samuel.alexander@neccog.org
Cc: 'Wingfield, Betsey'; Rivers Alliance
Subject: Formal Communication to

Hello, gentlemen of the WUUCs. Below is an email I sent ten days ago, but it apparently did not reach everyone. It includes excerpts from the sections of the WUCC statute dealing with the requirement to include in the coordinated plans *provisions for “water quality, flood management, recreation and aquatic habitat issues; ..”* , and dealing with the creation of ESAs. The process in the statute seems to me different from WUCC practice.

As for the requirement that WUCC planning provide environmental protections, I am puzzled by MMI’s proposal to postpone consideration of this matter until after completion of the regional resource assessment. How can one do an assessment of available water -supply resources without considering streams that are being pumped dry (or choked by impoundments); excavation of source-water aquifers and other high quality aquifers; ongoing contamination of surface and ground waters due to increased stormwater runoff, and so forth. In the Central WUCC, for example, will the WUCC resource assessment not take into account the de-watering of Coppermine Brook, East Branch of the Farmington, and Nepaug Rivers. Surely, making any provision for water quality and habitat preservation in these streambeds would necessarily impact supply assets of the utilities involved. Is the idea to correct the regional assessment later?

Thank you for your consideration. Margaret Miner, Rivers Alliance

From: Rivers Alliance of CT [mailto:rivers@riversalliance.org]
Sent: Thursday, July 14, 2016 9:00 PM
To: 'Bavery@HazardvilleWater.com' <Bavery@HazardvilleWater.com>; 'dphwucc@ct.gov.' <dphwucc@ct.gov.>; 'dbanker@themdc.com.' <dbanker@themdc.com.>; 'samuel.alexander@neccog.org' <samuel.alexander@neccog.org>
Cc: 'Wingfield, Betsey' <Betsey.Wingfield@ct.gov>; Rivers Alliance (rivers@riversalliance.org) <rivers@riversalliance.org>
Subject: FOLLOW-UP ON WUCC MEETINGS

Good evening, gentlemen: Here below are passages from two sections of the statutes dealing with WUCC work. This is a follow-up on comments that have arisen in WUCC discussions. I believe Dan Lawrence (Western WUCC) was most interested in the first excerpt. Scott Bighinatti (Eastern WUCC) made a note relating to the second excerpt.,

Thanks for pass this along. Margaret @ Rivers Allince

In 25-33h, I have bold-faced the words that require each coordinated water system plan to include provisions for “*water quality, flood management, recreation and aquatic habitat issues; ..*” You will see in the history notes that these words were added as part of PA 14-163, the state water plan act. In reports so far from Milone & MacBroom, I haven’t seen attention to this language.

The legislative intent definitely was to require a serious environmental report within WUCC planning. The representatives of water companies and enviros in the room in 2014 had agreed not to amend the WUCC sections of the statute, but Rep. Mary Mushinsky felt that our enviro side (especially I) had been too weak-kneed, and she worked with leadership to amend the statute as you see it now.

The second excerpt, from 25-33g, relates to the creations of ESA boundaries and changing them. For the time being, it is most relevant to the Eastern WUCC. It is less clear-cut than I remember, but the process for establishing ESA’s seems to be that

- 1) The WUCC will gather information on all existing service areas, and shall create *preliminary* ESA boundaries.
- 2) The WUCC *shall* submit the preliminary ESAs boundaries to municipalities, COGs, the agencies of cognizance, and other interested persons.
- 3) Disagreements on ESA boundaries or a change to such boundaries shall be referred to PURA and then DPH if necessary. (Weird.)
- 4) In considering any change to ESA, DPH shall consider existing ESAs and numerous other factors.

It is not clear to me whether this entire section 25-33g refers to the creation of preliminary boundaries or whether it transitions to address changes in ESA boundaries that have been fully and formally approved. And there are other ambiguities. However, it makes little sense to interpret the section to mean that, although much work and widespread consultation is required to promote preliminary boundaries to the status of official ESA boundaries, thereafter any two water companies can get together and agree upon a boundary change with almost no outreach or consultation, and with approval only from some of their WUCC colleagues or perhaps no review at all. I gather that such an expedited approach is favored by CWWA, but I do not believe that private rewriting of service areas was intended by this law. As Len DeJong pointed out in the Western WUCC, even a small boundary line change can have a significant impact on resources in the watershed. For example, it may mean a different source will be used. Also, some customers may have an opinion on which water companies nearby do good work and which don’t. It seems to me that, before customers are handed over, they should have a chance to express their views in a timely manner. Water companies are not fungible. Neither are customers.

Sec. 25-33h. Coordinated water system plan. Regulations. (a) Each water utility coordinating committee shall prepare a coordinated water system plan in the public water supply management area. Such plan shall be submitted to the Commissioner of Public Health for his approval not more

than two years after the first meeting of the committee. The plan shall promote cooperation among public water systems and include, but not be limited to, provisions for (1) integration of public water systems, consistent with the protection and enhancement of public health and well-being; (2) integration of water company plans; (3) exclusive service areas; (4) joint management or ownership of services; (5) satellite management services; (6) interconnections between public water systems; (7) integration of land use and water system plans; (8) minimum design standards; (9) water conservation; **(10) the impact on other uses of water resources including water quality, flood management, recreation and aquatic habitat issues;** and (11) acquisition of land surrounding wells proposed to be located in stratified drifts.

(b) The plan shall be adopted in accordance with the provisions of this section. The committee shall prepare a draft of the plan and solicit comments thereon from the Commissioners of Public Health and Energy and Environmental Protection, the Public Utilities Regulatory Authority, the Secretary of the Office of Policy and Management and any municipality, regional council of governments or other interested party within the management area. The municipalities and regional councils of governments shall comment on, but shall not be limited to commenting on, the consistency of the plan with local and regional land use plans and policies. The Public Utilities Regulatory Authority shall comment on, but shall not be limited to commenting on, the cost-effectiveness of the plan. The Secretary of the Office of Policy and Management shall comment on, but shall not be limited to commenting on, the consistency of the plan with state policies. The Commissioner of Energy and Environmental Protection shall comment on, but shall not be limited to commenting on, the availability of water for any proposed diversion, **water quality, flood management, recreation and aquatic habitat** issues. The Commissioner of Public Health shall comment on, but shall not be limited to commenting on the availability of pure and adequate water supplies, potential conflicts over the use of such supplies, and consistency with the goals of sections 25-33c to 25-33j, inclusive.

(c) The Commissioner of Public Health shall adopt regulations in accordance with the provisions of chapter 54 establishing the contents of a plan and a procedure for approval or amendment to the plan.

(P.A. 85-535, S. 6, 13; P.A. 89-305, S. 24, 32; P.A. 93-381, S. 9, 39; P.A. 95-257, S. 12, 21, 58; P.A. 97-84; P.A. 02-139, S. 2; P.A. 11-80, S. 1, 79; P.A. 13-247, S. 312; P.A. 14-163, S. 6.)

History: P.A. 89-305 amended Subsec. (a) by adding Subdiv. (10), concerning acquisition of land surrounding wells proposed to be located in stratified drifts, as component of plan; P.A. 93-381 replaced commissioner of health services with commissioner of public health and addiction services, effective July 1, 1993; P.A. 95-257 replaced Commissioner and Department of Public Health and Addiction Services with Commissioner and Department of Public Health, effective July 1, 1995; P.A. 97-84 added new Subsec. (a)(9) re water conservation, renumbering remaining Subdivs. accordingly; P.A. 02-139 amended Subsec. (c) by requiring the commissioner to adopt regulations re amendment to the plan; P.A. 11-80 changed “Commissioner of Environmental Protection” to “Commissioner of Energy and Environmental Protection” and changed “Department of Public Utility Control” to “Public Utilities Regulatory Authority”, effective July 1, 2011; pursuant to P.A. 13-247, “regional planning agency” and “regional planning agencies” were changed editorially by the Revisors to “regional council of government” and “regional councils of governments”, respectively, in Subsec.

(b), effective January 1, 2015; P.A. 14-163 amended Subsec. (a)(10) by adding reference to water quality, flood management, recreation and aquatic habitat issues and amended Subsec. (b) by replacing references to regional planning agencies with references to regional councils of governments and adding reference to water quality, flood management, recreation and aquatic habitat issues, effective July 1, 2014.

Sec. 25-33g. Assessment of water supply conditions and problems. Exclusive service area boundaries. (a) Each water utility coordinating committee, in consultation with the Commissioners of Public Health and Energy and Environmental Protection, the Secretary of the Office of Policy and Management and the Public Utilities Regulatory Authority, shall develop a preliminary assessment of water supply conditions and problems within the public water supply management area. The committee shall solicit comments on the preliminary assessment from municipalities, regional councils of governments, state agencies and other interested parties and respond to any comment received. The committee shall thereafter prepare a final assessment.

(b) The committee shall establish preliminary exclusive service area boundaries, based on the final assessment, for each public water system within the management area, and may change such boundaries. In establishing exclusive service area boundaries the committee **shall** solicit comments on such boundaries from municipalities, regional councils of governments, the Commissioners of Energy and Environmental Protection and Public Health, the Public Utilities Regulatory Authority, the Secretary of the Office of Policy and Management and other interested persons within the management area and respond to any comment received. If there is no agreement by the committee on such boundaries, **or on a change to such boundaries**, the committee shall consult with the Public Utilities Regulatory Authority. If there is no agreement by the committee after such consultation, the Commissioner of Public Health shall establish or may **change** such exclusive service area boundaries taking into consideration any water company rights established by statute, special act or administrative decisions. In establishing such boundaries, the commissioner shall maintain existing service areas and consider the orderly and efficient development of public water supplies. **In considering any change to exclusive service area boundaries, the commissioner shall maintain existing service areas, consider established exclusive service areas, and consider the orderly and efficient development of public water supplies.**

(P.A. 85-535, S. 5, 13; P.A. 86-403, S. 60, 132; P.A. 93-381, S. 9, 39; P.A. 95-257, S. 12, 21, 58; P.A. 02-139, S. 1; P.A. 11-80, S. 78; P.A. 13-247, S. 312.)

History: P.A. 86-403 made technical change in Subsec. (a); P.A. 93-381 replaced commissioner of health services with commissioner of public health and addiction services, effective July 1, 1993; P.A. 95-257 replaced Commissioner and Department of Public Health and Addiction Services with Commissioner and Department of Public Health, effective July 1, 1995; P.A. 02-139 amended Subsec. (b) by adding provisions re authority of committee and commissioner to change exclusive service area boundaries; P.A. 11-80 changed “Commissioner of Environmental Protection” to “Commissioner of Energy and Environmental Protection” and changed “Department of Public Utility Control” to “Public Utilities Regulatory Authority”, effective July 1, 2011; pursuant to P.A. 13-247, “regional planning agencies” was changed editorially by the Revisors to “regional councils of governments”, effective January 1, 2015.

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