



Kathryn Keenan
Hearing Officer, Legal Office
Department of Public Health
410 Capital Avenue
P.O. Box 340308
Hartford, CT 06134

Re: Proposed Alteration of Boundaries of the Public Water Supply Management Areas and the Priorities for Initiation of the Water Utility Coordinating Committee [WUCC] Planning Process

COMMENTS from Rivers Alliance of Connecticut, 7 West Street, Litchfield, CT 06759
July 15, 2014

The present process undertaken to change WUCC boundaries and priorities for initiation of WUCC planning is not consistent with the statute (Sec. 25-33e through h). The statute must be updated to be applicable. We believe that the comments elicited from the public with respect to the proposed boundary changes should be regarded as guidance for the statewide, comprehensive water planning mandated in PA 14-163.

The WUUC statute (Sec. 25-33e) provides that preliminary and final boundaries for water supply management areas were to have been set by 1986. At the same time, the four commissioners of what is now the Water Planning Council were to establish preliminary priorities for starting planning within the WUCC areas.

Arguably, under this statute, boundaries may have been set in at least some of those WUCCs that have been called, although not necessarily in the time or manner prescribed by the statute. But there is not a process in the statute for revising those boundaries now. For those WUCCs that have not been called, or for which boundaries were not set, they would be almost 30 years late in meeting the deadline.

It is reasonable to assume that, given the changes in recent decades, an extension of the deadline should be submitted to the CGA for approval and should be linked to a review of the underlying statute. One might try to stretch the language to cover boundary changes in 2014, but it looks like a stretch too far. Here follows the text re boundaries in the statute.

Sec. 25-33e. Delineation of public water supply management areas. (a) Not more than six months after July 1, 1985, the Commissioner of Public Health, in consultation with the Public Utilities Regulatory Authority, the Commissioner of Energy and Environmental Protection and the Secretary of the Office of Policy and Management, shall delineate the preliminary boundaries of public water supply management areas and establish preliminary priorities for initiation in such areas of the planning process established in sections 25-33f to 25-33h, inclusive. Not more than one year after July 1, 1985, the commissioner, after a hearing, shall delineate the final boundaries of such areas.

Other sections of the statute also do not appear to have been taken into account fully. Thus:

DPH has issued no documentation of its research with regard to the eight criteria that must be considered in setting WUCC boundaries. This information was requested by Canton First Selectman Richard Barlow on May 1, 2014. In comments submitted on May 15, Mr. Barlow stated that the only response he had received was that his request “was being evaluated to determine if such information is disclosable.”

This means that the Water Planning Council is launching a planning process, the results of which must go to a public hearing and to the CT General Assembly, without knowing whether essential information is “disclosable.” This problem should be faced now rather than later. Has a determination been made in Mr. Barlow’s case? The next FOI issue will relate to the proposed future drinking water sources, in particular the 19-page DPH High-Quality Source List, which does not include yields, and therefore is close to useless for planning purposes. Rivers Alliance will request this information if it is being used in streamflow classifications or water supply planning but not available to the public.. (Reportedly, the draft DPH report included the yield information, but DPH was overruled by security officials.)

Even the Rivers Alliance interpretation of the statute is wrong, and there is a statutory basis for revising the WUCC boundaries and planning priorities, the present process would not qualify as prudent.

There are at least three statewide planning-region processes underway with which any changes to the WUCC boundaries or operations should be coordinated. These are the changes in the COG boundaries; the basin-based streamflow classifications; and the delineation of water planning regions called for in the new state water planning law (PA 14-163). Until these planning efforts are rationally harmonized, time and money are being wasted on making decisions that will have to be revisited.

Some suggest that a rapid completion of the WUCC process would not interfere with comprehensive water planning because other aspects of the plan could be fitted around the WUCC plans. The same argument could be made for streamflow standards: DEEP should go ahead and write regulations to protect flows and then DPH can fit the needs for

water supply around the flow regulations. That approach would not be acceptable to DPH or water utilities.

In addition, changes to WUCC management boundaries and WUCC decisions generally do not meet modern standards for public involvement. Rules for due process are almost non-existent in the statute, and have not evolved far over the years. For this reason DPH recently released *DRAFT: [WUCC] Standard Rules and Procedures*, with sections on *Schedules; Notifications; and Membership/Standard Protocols and Procedures*. Having attended a number of WUCC meetings and read minutes of others, I can attest that this draft document is badly needed. It is questionable whether any decision made in a WUCC has the force of law, with the exception perhaps of certain decisions in the Southeast WUCC, which is the sole WUCC having a state-approved water management plan. Before proceeding further with WUCC deliberations, a uniform, fair, statute-based protocol for deliberations and decisions should be established.

Moreover, those affected by WUCC deliberations should be at the table. The primary purpose of WUCCS is to arrange exclusive water-supply service areas across the state in such a way as to maximize supply efficiency and minimize competition. **Although WUCC decisions are extraordinarily important to the future of the state's public trust waters and to water consumers, neither environmental interests nor customers are represented in WUCC membership.** Also it appears that not all the water suppliers that by statute are WUCC members are receiving notice of the meetings. And, judging by scant attendance, it appears that the public was not aware of the DPH meetings re WUCC boundaries or the implications for their communities.

We feel that these concerns have informed many of the comments submitted to DPH.

For example, Peter Hughes of Marlborough, said in testimony on May 19, 2014, "*We went through the WUCC process. We're not interested in going through it again.*" As I read the statute, he should not have to go through it again. And he raises an even larger issue that clearly deserves regional discussion:

You know, we look at this as you're just taking the Connecticut River towns out of the WUCC so that you can open up the Connecticut River basin to Storrs without crossing WUCC boundaries. You're taking the larger water companies and giving them a greater area to expand, and taking out the smaller communities that aren't going to connect to these larger systems, especially in the Southeast WUCC that went through the planning process, out of a boundary that they shouldn't be taken out of."

He is saying that this boundary change could the economic future of towns in the region. Such a change deserves more discussion.

A similar point was made even more forcefully by Eileen Fielding, Executive Director of the Farmington River Watershed Association (and President of Rivers Alliance). Communities in the Farmington River valley are highly sensitive to any changes in policy or conditions that affect the beloved river. In her testimony on May 15, 2014, Ms. Fielding said:

So, looking at the proposed new boundaries we have a couple of concerns. One is that the Farmington basin in this plan is now divided into the Western Connecticut and the Central Connecticut WUCC's and those are both larger areas. And so, what we have the concern with is that this can pave the way for the abundant surface drinking water resources in the Farmington Valley to be distributed into two much larger areas and thus put undue demand on a river system that really has multiple uses .

[We would like to] know more about the criteria that were used for setting the boundaries. And we are somewhat concerned that this decision for the boundary changes might prematurely limit decisions to be made later on in the state water planning process."

Recent history has demonstrated that when people understand how water supply issues affect their natural resources and water service, they care and react. It is better to work out problems early than to leave them on the tracks to derail progress.

We regard the effort to gather reaction to proposed WUCC boundary changes as extremely useful in going forward with water planning, but not validated by statute. We recommend a review of the statute to ascertain what amendments might be needed to make it applicable to the present state water-planning mandate.

Margaret Miner, Executive Director