Managing Water for Fish and Faucet:
Proposed Regulations Are a Negotiated, Balanced Compromise

Water is the state's most valuable natural resource -- essential to health, the environment, and economic growth. The latest science and economic analysis tells us that protection of water throughout a watershed is the best guarantee of high-quality supply. (Cite the Aspen study, 2009) At the same time, a healthy, diverse aquatic ecology supports recreation, tourism, and quality of life. **A sound economy manages water for both fish and faucet.**

Unfortunately, in Connecticut, we are on an unsustainable path that threatens both fisheries and water supply. Despite our relatively rich water resources, we are facing a crisis of mismanagement. Some 60 rivers and streams are impaired or threatened by artificially low flows. They cannot support aquatic life. The state compensates by raising fish and delivering them to rivers. Most of these fish die off. On the reverse side of this page, is a photo of the draw-down of the Fenton River in 2005.

Water diverters claim there is too little water to meet their needs and to sustain healthy watershed systems.

Can it be true that in water-rich Connecticut, our residents must choose between clean water in the tap and fish in our rivers? The answer is, NO.

With good management, we can have an ample water for societal needs, sufficient water in rivers to sustain healthy aquatic life, and water in reserve for the future.

Thirty years ago, Connecticut attempted to meet this goal by passing flow standards, applicable to stocked streams. But the standards were unscientific and inadequate, which the state acknowledged in 2000 in sworn testimony in the Shepaug River case. In 2005, the General Assembly passed legislation directing DEP to work with stakeholders to modernize flow regulations. **Since then, DEP has worked with three stakeholder advisory committees to strike a balance between 1) providing adequate supplies for water utilities and others who sell and use water, and 2) protecting rivers from excessive water diversions.**

The environmental community is not completely satisfied with the resulting proposed regulations. They leave too many "outs" for major water users and will not fully protect for the natural life in our rivers. But we recognize that these proposed regulations are a compromise. Water utilities, too, are not satisfied. Their chief objection is that meeting the regulations will be too costly.

We believe that the costs are small in relation to the investment in infrastructure that all utilities have to make to ensure the quality and reliability of their supply. Sound management requires a sustainable plan that avoids depleting the resource.

THE PROPOSED STREAMFLOW REGULATIONS WILL PROTECT WATER FOR ALL.
Approve the Streamflow Regulations

Rivers Alliance – The Nature Conservancy –
Housatonic Valley Association – Trout Unlimited

2010 STREAMFLOW REGULATIONS

Background: Connecticut law and regulation has provided some protection for the quantity of water flowing in streams and rivers since the 1970s. But the existing flow regulation, adopted in 1979, is so weak that in 1999 the DEP gave sworn testimony in the Shepaug River case that the regulation was not based on science and was not protective of river ecology. As a result, the General Assembly passed PA 05-142 requiring the DEP to write a new regulation that would provide better conditions for rivers while safeguarding water supply for households, industry, and other societal needs. After four years of negotiation with a wide range of stakeholders, DEP has written a new regulation. It goes to public hearing January 21, with a comment period until February 4.

Differences Between the Old and New: 1) The old law and regulation applied only to streams that the state stocks with fish. The 2005 law and the proposed regulation apply to all rivers and streams. 2) The old regulation did not come anywhere near requiring adequate streamflows to sustain river ecology. The requirements in the new regulation provide for more protective quantities of water, and flows under the new regulation will be closer to reflecting the natural flow patterns in our rivers. 3) The new regulation provides for limits on groundwater pumping that diminishes river flows. This appears to be required in the plain language of the law both pre- and post-2005. The most famous and most lethal recent river draw-down, the dessication of the Fenton River at UConn in 2005, was caused by groundwater pumping. However, utilities are challenging inclusion of groundwater.

Features of the Regulation: 1) The regulation is based on a graded classification of rivers, with maximum protection for the most pristine waters, which are Class 1, and quite strong protection for Class 2 waters, which are minimally disturbed. Class 1 and 2 should be able to sustain river fish that require ample cold water. Class 3 rivers are "moderately altered" working rivers, and the required flows would not sustain a natural river community but would sustain some sort of aquatic community, such as pond fish rather than river fish. Most streams used by utilities will be Class 3. At the request of utilities, DEP has added a Class 4, which includes what used to be called "sacrificial" rivers. There is no need to sustain aquatic life and only a miniscule flow is required. 2) Releases and other means to meet the flow standards are based on the science of the needs of the aquatic community in an annual sequence of bioperiods (habitat formation, spawning, etc.) with formulas that also take account of whether it is a wet year or dry year. The crunch time is July 31 to October 31, the growth bioperiod, when there is least water, and most demand for supply. 3) The regulations are phased in over a period of about 5 to 16 years, with public participation as rivers are classified or reclassified. There are numerous exemptions, accommodation for drought conditions, provision for variances, and especially a provision that allows a diverter to enter a site-specific compact agreement for an individualized flow management plan. The regulations are balanced and reasonable. 4) Water utilities have voiced non-specific fears about costs. River advocates believe the cost will be small relative to normal investment.

For more information, including specific recommendations for closing loopholes in the regulation, contact Rivers Alliance of Connecticut at rivers@riversalliance.org or 860-361-9349. The DEP website has the regulation and explanatory material, with a home- page link at ***www.ct.gov/dep/***