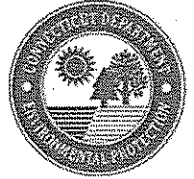




# STATE OF CONNECTICUT

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
79 ELM STREET HARTFORD, CT 06106-5127



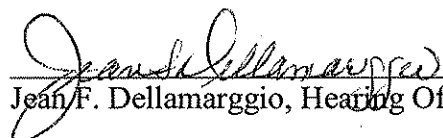
OFFICE OF ADJUDICATIONS

*IN THE MATTER OF* : *APPLICATION NO. 200700956*  
*CONNECTICUT WATER COMPANY* : *NOVEMBER 14, 2008*

## **PROPOSED FINAL DECISION**

The applicant, Connecticut Water Company, has filed an application with the Department of Environmental Protection (DEP) Inland Water Resources Division for a water diversion permit. General Statutes §22a-368. The applicant proposes to withdraw water from three water-supply production wells in Hebron and Lebanon to serve the Amston Lake public water supply system. DEP staff has determined that this proposed regulated activity is necessary and will not significantly affect long-range water resource management or impair proper management and use of the state's water resources. General Statutes §22a-371. Staff has prepared a draft permit authorizing the project.

A hearing in this matter was held on November 3, 2008, at the Hebron Town Office Building for the purpose of taking public comments on the application. The parties submitted the attached Agreed Draft Decision for my consideration. (Attachment A.) Regs., Conn. State Agencies §22a-3a-(1)(3)(A)(i). I have reviewed the draft decision, the record and relevant public comments. I have assessed the application with regard to relevant statutes and regulations. General Statutes §§22a-365 through 22a-378; Regs., Conn. State Agencies §22a-377(c). I adopt the Agreed Draft Decision as my Proposed Final Decision and recommend the Commissioner issue the requested permit. (Attachment B.)

  
Jean F. Dellamargio, Hearing Officer

PARTY LIST

PROPOSED FINAL DECISION

In the matter of the Connecticut Water Company

PARTY

REPRESENTED BY

Applicant

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ATTACHMENT A

STATE OF CONNECTICUT  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
OFFICE OF ADJUDICATIONS

IN THE MATTER OF : APPLICATION NO. 200700956  
:  
:  
:  
CONNECTICUT WATER COMPANY : NOVEMBER 7, 2008

**AGREED DRAFT DECISION**

**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:

**A. Procedural History**

In March of 2007, the Connecticut Department of Environmental Protection ("CTDEP") received an application from Birmingham Utilities, Inc. for a water diversion permit (the "Application") pursuant Conn. Gen. Stat. § 22a-365 *et seq.* (the "Act"). (Exhibit App-1). The Application was prepared by Leggette, Brashears & Graham, Inc. The Application seeks a permit for the diversion of 0.1326 million gallons per day ("mgd") of ground water from three water-supply production wells (Firehouse, Island Beach and Nuteck Well) in Hebron and Lebanon, Connecticut to serve the Amston Lake public water supply system.

After submission of the application, Birmingham Utilities, Inc.'s eastern division assets, including the Amston Lake system, were purchased by Connecticut Water Company (the "Applicant"). (Exhibits DEP-5, APP-5 and APP-6), and a transfer of the permit application was filed for by the Applicant.

Notice of the Application was published on March 30, 2007 in the Hartford Courant and on April 16, 2007 in the Reminder News/Hebron. (Exhibits DEP-22, 23, 24 and 25).

On May 30, 2007, the Department of Public Health recommended that the diversion permit be issued. (Exhibit DEP-10).

Following a technical review of the Application and all supplementary material, CTDEP Staff made a tentative determination to approve the Application and issue a diversion permit. On June 2, 2008, the Commissioner published a Notice of Tentative Determination and Intent to Waive Public Hearing. (Exhibit DEP-18).

On June 26, 2008, along with a petition signed by more than twenty-five (25) persons requesting a hearing, the Town of Hebron submitted a Request for Hearing to Doug Hoskins of the DEP Inland Water Resources Division. (Exhibit DEP-1 and 2). A Request for Hearing was also submitted by Representative Pamela Z. Sawyer of the Fifty-Fifth District on July 2, 2008. (Exhibit DEP-16).

A Status Conference was held on September 16, 2008. David Radka for the applicant, Doug Hoskins and Maurice Hamel for the DEP Inland Wetland Resources Division and DEP Remediation Division, and Jared Clark for the petitioner, Town of Hebron were present. Mr. Clark advised that the Applicant held an informational meeting with representatives of the town and residents, and addressed concerns raised by the participants pertaining to the diversion and water quality. See September 18, 2008 Status Conference Summary.

On September 18, 2008, a Status Conference Summary was issued that acknowledged Mr. Clark's representation regarding the informational meeting, set a hearing date of November 3, 2008 and set a pre-hearing conference date. *Id.* On October 2, 2008, Notice of Public Hearing was published. (Exhibit DEP-17).

On October 16, 2008, a conference call was held, in lieu of the scheduled pre-hearing conference, during which the parties advised that there were no objections to the parties' respective lists of issues, witnesses and proposed exhibits. See Applicant's October 20, 2008 dated Memorandum Regarding Prehearing Filing of Exhibits and DEP's October 17, 2008 dated Prehearing Submission. There being no objection, the parties' signed a Stipulation documenting that there were no objections. See October 17, 2008 dated Stipulation Between Connecticut Water Company and Department of Environmental Protection, Inland Water Resources Division.

Prior to the hearing I received exhibits from the Applicant and DEP – Inland Water Resources Division. Among its exhibits, the Applicant submitted resumes or documentation for Kenneth Taylor regarding his professional experience and also provided a summary as to the general nature of the opinions this witness would give. See Applicant's October 20, 2008 dated Memorandum Regarding Prehearing Filing of Exhibits. The DEP Inland Water Resources Division also submitted credentials for Doug Hoskins and Maurice Hamel regarding their professional experience. (Exhibit DEP-27 and 28).

## **B. Parties**

The parties to the proceeding are Connecticut Water Company (the "Applicant") and CTDEP Staff of the Inland Water Resources Division.

## **C. Project Description**

The Applicant seeks to divert 0.1326 mgd of ground water from three bedrock wells including one existing production well located in Hebron, Connecticut (Firehouse Well), one existing production well located in Lebanon (Island Beach Well) and a proposed production well located in Hebron off of Route 85 (Nuteck Well). (Exhibit APP-1, Attachment A).

The Firehouse Well and Island Beach Well were reportedly constructed in the 1930's and are located 150 feet west and 450 feet east of Amston Lake, respectively. The Firehouse Well and Island Beach Well are used to support the Amston Lake community. Because the community is comprised of year-round and seasonal connections, there is a significant increase in demand during peak summer months when residents are present. Historically the peak use has been observed from April to October. (Id and APP-1, Attachment D6).

The Nuteck Well, located approximately 500 feet west of the intersection of Church Street (Route 85) and Lake Road, was used to supply water for the former United Distillery operations that occurred between 1937 and 1961. The date of construction is unknown. (Exhibit APP-1, Attachment A). The property is occupied by one bedrock well and an abandoned well house. The Nuteck Well would pump into its own storage tank located onsite and be transferred via booster pumps to the Amston Lake System at the gradient of the 75,000 gallon storage tank on St. Ronan Road. A water main extension on Church Street (CT Rt. 85) and Lake Road would be required to tie in the well with the existing 6-inch diameter water main located on Lake Road. (Exhibit APP-1, Attachment D5). The existing well house for the Nuteck Well is in disrepair. This well house will be upgraded to meet building code and an onsite storage tank (size to be determined) is proposed. Water from this well will be treated prior to entering the distribution system. With the exception of a replacement pump house, onsite storage tank and associated underground piping at the Nuteck Well property, no other structures are proposed for this diversion. (Id).

All three wells withdraw water from the bedrock aquifer (Hebron Gneiss). The Firehouse Well is completed to 290 feet below grade ("ft bg"), the Island Beach well is completed to 202 ft bg. Each of the wells is equipped with a submersible pump. The Firehouse Well and the Island Beach Well are supplying 44 gpm and 33 gpm, respectively. The Nuteck Well has been yield tested and can support 40 gpm. (Exhibit APP-1, Attachment A, Attachment D6 and DEP-8).

The Firehouse Well and the Island Beach Well are activated by the level in a 75,000 gallon atmospheric storage tank located on St. Ronan Road in Hebron. The Island Beach Well pumps directly to a 64,000 gallon atmospheric tank located at the Island Beach pump house. (Id). Water from both wells is subject to chlorination and iron treatment. The iron filter system for the Firehouse Well includes pre-chlorination and oxygen in air to oxidize the soluble iron prior to entering a filter system. In addition, water from the Firehouse Well is further treated with a sequestering agent, then passes through one of four 10 cubic foot mixed media iron removal filters before entering the distribution system. Iron from the Island Beach Well is removed by two 24-inch diameter greensand filters. Potassium permanganate is added to oxidize the iron. The water is then chlorinated prior to entering the distribution system. The Applicant proposes to chlorinate the water from the Nuteck Well and to add on-site storage prior to the water entering the Amston Lake distribution system. (Exhibit APP-1, Attachment A and Attachment D5).

None of the wells are located in the 100-year flood plain or the floodway, consequently none of the wellheads need to be raised above the 100-year flood boundary. (Id and Attachment D5).

## **D. Site Description**

Amston Lake is a 186-acre (0.29 square miles) natural lake used for recreational purposes. A dam is located at the lake outlet to raise the water level. (Exhibit APP-1, Attachment B and D2). All of the affected bedrock wells are located in a relatively level area with the Firehouse Well located on the west side of Amston Lake and the Island Beach Well located on the east side of Amston Lake. The Nuteck Well is located east of a man-made impoundment (named Beaver Pond). A complete discussion of the wetlands in the area is provided in the environmental report included in Attachment K.

Access to the Firehouse Well is via a paved area adjacent to the Fire House off of Deepwood Drive (approximately 200 feet south of the intersection of Hillcrest Drive in Hebron). Access to the Island Beach Well is via a gravel driveway off of Island Beach Road (approximately 300 feet southeast of the intersection of Deepwood Drive in Lebanon. Access to the Nuteck Well is via a gravel path off of Church Street (CT Route 85) across from the intersection of Lake Road. (Id).

## **E. The Applicant**

The Applicant is identified on the application as Birmingham Utilities, Inc. (“BU”). (Exhibit APP-1). After submission of the application, BU’s eastern division assets were purchased by the Connecticut Water Company and is now operated by same. Connecticut Water Company is now the Applicant. (Exhibits DEP-5, APP-5 and APP-6).

## **F. The Application**

The Application consists of Exhibit APP-1 as supplemented by the Applicant’s other exhibits and the testimony provided at the public hearing. Exhibit APP-1 consists of a completed application form entitled “Permit Application for Programs Administered by the Inland Water Resources Division” (“Application Form”) and Attachments A through Q (but excluding those attachments that are not required for this diversion application).

### **1. Need for the Diversion**

This application proposes to operate two bedrock wells (Firehouse Well and Island Beach Well) that were installed in the 1950’s and 1960’s to support the Amston Lake community and one bedrock well installed in the 1930’s to support the former United Distillery site located in Amston, Connecticut. (Exhibit App-1, Attachments D6). Because the community is comprised of year-round and seasonal connections, usage has increased in demand during peak summer months when residents are present and the three wells are needed to satisfy water-supply requirements. Specifically, the Amston Lake water system supports 325 service connections with approximately 123 connections served year round and the remaining 190 connections for seasonal use. Historically, there is a significant increase in demand from April to October, when most residents are present. (Exhibit APP-1, Attachment D6 and D8).

Several proposed and potential developments are being considered in the area that would be served by the Amston Lake system, including a senior citizen residential community at the Nuteck property that would also include limited commercial use. The projected demand for the development at 100 percent build-out is 5,200 gpd. There is also another proposal that has not been formally submitted to develop a property for commercial use located approximately 1,200 feet from the Nuteck property. Because design plans have not been submitted to date, water use for this commercial property has not been determined. (Exhibit APP-7). These developments may, or may not, come to fruition and require public water service in the future. They do, however, typify the type of demand that the Amston Lake water supply system, once properly permitted, could reasonably expect to supply.

Based on 2006 data, the maximum monthly average day demand for the Amston Lake system was 72,660 gpd (gallons per day) in August. However, the maximum peak day demand, estimated from multiple weekly totalizer readings, combined with water that had to be trucked in to meet the shortfall, was approximately 97,919 gpd in July, 2005.

Currently, the combined yield from the Firehouse Well and the Island Beach Well is 110,880 gpd. The Applicant would, however, like to reduce the combined use of these two wells to 75,000 gpd with the inclusion of the third bedrock well (Nuteck Well). (Exhibit APP-1, Attachment D8). While 110,880 gpd is enough water to support the current and projected average daily and peak month average daily demands, this would not be enough to support the projected peak daily demands. As a result, the Amston Lake system requires another source of water. The Nuteck Well has been yield tested and can support 57,600 gpd. With the Nuteck Well available to the system, withdrawals from the Firehouse Well and the Island Beach Well are able to be scaled back from a peak daily use of over 90,000 gpd to a maximum withdrawal of 75,000 gpd, combined. Limiting pumping from the Amston Lake watershed to 75,000 gpd would have an overall positive effect on Amston Lake's water budget by ensuring that withdrawals do not exceed existing conditions in the future and by decreasing withdrawals from the basin during dry peak demand periods.

The Amston Lake water system, with a diversion of 132,600 gpd (0.1326 mgd) would be able to meet the peak month average day as well as the peak day demand for current and projected demands. (Exhibit APP-1, Attachment D8). In addition, ground-water withdrawal from each well may be used as an alternative source of water for the system without imposing serious restrictions should an emergency situation arise, e.g., when a well that is normally used for water supply must be deactivated for maintenance. (Id).

Applicant's Exhibit 5 summarizes the average and peak day demand, including the proposed senior citizen development, as set forth below:

<i>Year</i>	<i>Average Daily Production (gpd)</i>	<i>Peak Month Average Daily Use (gpd)</i>	<i>Peak Day Use (gpd)</i>	<i>With 15% Margin of Safety (gpd)</i>
2005	45,217	72,400	97,919	

2006	49,224	72,660	93,920	
2008	62,320*	93,480**	120,830***	138,955
2020	63,040*	94,560**	122,230***	140,565
2050	64,720*	97,080**	125,485***	144,308

\* projected from the Applicant approved Water Supply Plan (includes proposed senior citizen development)

\*\* Average daily (includes proposed senior citizen development) multiplied by 1.5 (2006 peak month to average day ratio)

\*\*\*Peak month (includes proposed senior citizen development) multiplied by 1.29 (2006 peak daily to peak month ratio)

The Applicant has no existing permitted or registered wells connected with the Amston Lake water system. Therefore, the rehabilitation or replacement of wells is not a viable option. (Id).

## 2. Reasons for the Diversion

The Application details the reasons for the diversion. (Exhibit APP-1, Attachments D5, D8 and Q). The reasons for the diversion are identical to the need for the diversion as described in Section E.1 above.

## 3. Description of the Existing Water System

The Application provides a detailed description of the existing water system. (Exhibit App-1, Attachment D10).

## 4. Locations of Withdrawals and Discharges

The locations of withdrawal are set forth in the Application. (Exhibit APP-1, Attachments A and D2). Diverted water delivered to areas served by sewers will be discharged to the Colchester Pumping Station and to the East Hampton Wastewater Treatment Plant. Water delivered to areas without sewers will be discharged to ground water within the Raymond Brook watershed (DEP #4701), which is part of the Salmon Regional Basin and the Bartlett Brook watershed (DEP # 3902) which is part of the Yantic Regional Basin, and Amston Lake via septic systems. (Exhibit APP-1, Attachment D3).

## 5. Quantity, Frequency and Rate of Water Diversion

The Application requests approval of a maximum of 0.1326 million gallons per day and includes a combined total of 0.075 mgd from the Firehouse Well and the Island Beach Well and a total of 0.0576 mgd from the Nuteck Well. (Exhibits APP-1, Attachment D and DEP-8). The wells will be pumped only on an as-needed basis to support the Amston Lake System Community, which has both seasonal and year-round residents. (Exhibit APP-1, Attachment D). The Firehouse Well is controlled by a pressure switch (in pumphouse) which is activated by the level in a 75,000 gallon elevated storage tank



located at St. Ronan Road, Hebron. The Island Beach Well is controlled by a pressure transducer at a nearby 64,000 gallon atmospheric tank in Lebanon. The pressure switch also controls the booster pumps to transfer water (adjustable by VFD) from the 64,000 gallon tank. The wells are each equipped with an in-line flow meter that indicates instantaneous and total cumulative flow. The Nuteck Well will be individually metered and will be controlled identical to Island Beach Well. (Id.)

## **6. Length of Time for Which the Diversion is Sought**

The Applicants seek a diversion permit for a period of twenty-five (25) years. (Exhibit App-1, Attachments A and D).

## **7. Effect of the Proposed Diversion**

Attachment A of the Application sets forth the various factors that significantly reduce the impact of this diversion.

1. The results of a hydrogeologic assessment of the Nuteck Well indicate that there is no measurable hydraulic connection between the bedrock aquifer and the shallow ground-water or surface water systems within the area monitored. A fracture trace analysis shows an extensive fracture system throughout the region, supporting the conclusion that the Nuteck Well diversion will not adversely affect shallow ground-water levels or surface-water bodies in the study area.
2. The Amston Lake water system has been in operation for over 60 years. The pumping conditions and impact have been established by the long-term pumping. The inclusion of the Nuteck Well into the Amston Lake water system diversion will allow the Firehouse Well and Island Beach Well to be pumped at a combined lower yield.
3. All structures around the two wells adjacent to Amston Lake related to this diversion are already in place. Therefore, there will be no construction-related impact to flood plains, wetlands or wildlife. The Applicant is proposing to bring the abandoned pump house up to code at the Nuteck Well property, install an onsite water storage holding tank and make the necessary piping connections for the water distribution system. All best-management practices will be employed during the on-site construction. No impact to surface-water bodies or wildlife are anticipated. (Exhibit APP-1, Attachment A).

## **8. Alternatives**

The Application contains an Alternatives Assessment at Attachment M of Exhibit App-1. The Alternatives Assessment discusses a variety of alternatives, including alternative sources of water such as interconnection(s) to other water-supply systems, use of surface

water reservoirs and development of other ground-water resources. (Id and see also, Exhibit DEP-5).

There are no viable potential interconnections near the Amston Lake area. There are also no existing surface-water impoundments near the Amston Lake area and, moreover, concern over the potential environmental impact associated with the use of a surface-water reservoir is much greater than that for the use of a ground-water resource. The cost of constructing a new reservoir is prohibitive and the effects on the aesthetic quality of the water are also problematic. Lastly, the Applicant has conducted several subsurface investigations to locate other areas that may have the potential for ground-water development. The overburden materials underlying the property, as well as the bedrock, were found to be not suitable for production well development. (Id and see also, APP-1, Attachment Q, Part 1 and APP-2).

Based on that Assessment, alternatives to the proposed diversion are either not prudent or are not feasible.

**9. Conservation Measures**

Attachment D10 of Exhibit App-1 contains a detailed “Long Range Water Conservation Plan.”

**10. Environmental Impact Report**

Even though the Amston Lake’s water supply system does extend beyond a subregional drainage basin boundary, and therefore would technically qualify this diversion as an interbasin transfer as defined in § 22a-367, the commissioner made no request of the applicant to file an environmental impact report pursuant to § 22a-369 (App-1, Attachment G).

**G. Conn. Gen. Stat. § 22a-373(b) Considerations**

**1. 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**

The diversion will consist of the pumping of water from one pumping well that draws from the Hebron Gneiss bedrock formation at a completed depth of approximately 200 ft bg in Hebron (Nuteck Well), one pumping well that draws from the Hebron Gneiss bedrock formation at a completed depth of approximately 290 ft bg in Hebron (Firehouse Well) and one pumping well that draws from the Hebron Gneiss bedrock formation at a completed depth of 202 ft bg in Lebanon, Connecticut (Island Beach Well). There are a number of surface-water features in the vicinity of the three wells (Exhibit APP-1, Attachment B and D2).

The Firehouse and Island Beach Wells are active, pre-existing sources for which yield test data are not available. For water supply planning purposes, well safe yields are estimated from historical operating records. These data indicate a combined, sustainable pumping rate of 126 gpm, or some 181,000 gpd, with individual withdrawal rates of 46 gpm and 80 gpm for the Firehouse and Island Beach Wells, respectively. As bedrock supplies, safe yield is typically assessed at 90% of the pumping rate over an 18 hour day. Combined safe yield, then, is calculated as follows:  $[46 \text{ gpm} + 80 \text{ gpm}] \times 0.9 \times 1080 \text{ minutes/day} = 122,472 \text{ gpd}$ . While safe yields will be confirmed with additional testing at the first practical opportunity, the requested diversion, which limits withdrawals from the two sources to 75,000 gpd, is believed well within the existing source safe yield.

The Nuteck Well was individually yield tested in 2005 by LBG personnel as part of their efforts to assess the well's viability as a public water supply source. From September 13 through 16, the Nuteck Well was pumped at an average rate of 40.2 gpm. Based on the stabilized pumping level and available drawdown remaining in the well, LBG calculated a sustained yield for the Nuteck Well of between 40 and 100 gpm.

Based on existing data, the Firehouse, Island Beach and Nuteck Wells collectively possess a safe, dependable yield in excess of the requested 132,600 gpd diversion rate.

**2. 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**

The diversion is compatible with the policies and programs of the State of Connecticut dealing with long range planning, management, allocation and use of water resources. (Exhibit APP-1, Attachment D10, DEP-12).

**3. Relationship of the Proposed Diversion to Economic Development and the Creation of Jobs.**

The diversion makes it possible to meet current and projected future demand of both seasonal and year round residents, as well as limited commercial development in the Lake Road/ Church Street (Route 85) area, such as a proposed senior citizen residential community and commercial project located approximately 1,200 feet from the Nuteck property. (Exhibits APP-1, Attachment, D6 and D8, APP-5 an APP-7). The proposed and potential developments being considered will be a source of jobs.

**4. Effect of the Proposed Diversion on Existing Water Conditions**

The diversion will have no adverse impact on existing water conditions and in the case of the Firehouse and Island Beach Wells will have a positive effect resulting from the planned reduction in pumping. (Exhibits APP-1, Attachment A).

**5. Effect, including thermal effect, of the Proposed Diversion on Fish and Wildlife**

The diversion will not have any adverse effect on fish or Wildlife. (Exhibit App-1, Attachment K and DEP-5).

**6. Effect of the Proposed Diversion on Navigation**

The diversion will have no effect on navigation. (Exhibits APP-1, Attachment G).

**7. Necessity**

Taking into consideration and giving due regard to the Alternatives Assessment (Exhibit App-1, Attachment M) proffered by the Applicants, there are no prudent and feasible alternatives to the diversion. Given the ongoing need to satisfy public water-supply requirements, the diversion is necessary. (Exhibit APP-1, Attachment, D6 and D8).

**8. Effect on Interstate Waters**

The Application shows a wholly intra-state diversion of water that does not impact interstate waters. (Exhibit App-1, Attachment G). Based on that evidence, the diversion will not have any effect on interstate waters.

**9. Municipal Interests**

Notice of the Application was provided to the Town of Hebron (the "Town"). (Exhibits DEP-22, 23, 24 and 25). The Town submitted a Request for Hearing to Doug Hoskins of the DEP Inland Water Resources Division. (Exhibit DEP-1 and 2). The Town of Hebron had questions relating to whether the matter of the potential Nuteck well is properly before the Department, as well as concerns pertaining to the Town's tax liens against the affected property; how the diversion of additional water from the aquifer will affect the other wells; and lastly, relating to the quality of ground waters at the Nuteck Site. (Exhibits DEP-2 and 3). As noted above, during the September 16, 2008 Status Conference, Jared Clark, on behalf of the Town, advised that the Applicant held an informational meeting with representatives of the town and residents, and addressed concerns raised by the participants pertaining to the diversion and water quality. See September 18, 2008 Status Conference Summary. See Section G.1 and DEP-20 for information relating to effect of diversion on other wells.

With respect to water quality issues, the site Licensed Environmental Professional, Mr. Ted Stevens, filed for discontinuance of groundwater monitoring in January, 2008 following four consecutive quarters of compliance with groundwater protection criteria for GA areas and "the lack of any major soil contamination problems detected throughout the property during earlier site investigations." (Exhibits APP-12 and 14). DEP requested two additional quarters of groundwater monitoring because of the presence of zinc in earlier samples. (Exhibit DEP-31). The zinc is believed to have occurred as the

result of cross-contamination with zinc-plated hardware during sampling events. One of the required samples was recently taken; the last sampling round is currently scheduled for November. Mr. Stevens indicated that if the two additional sampling rounds are acceptable, DEP will approve the request to discontinue monitoring. While not required, the Applicant intends to conduct increased monitoring of the production well water for the constituents of interest (copper, chromium, lead and zinc) to ensure continued compliance with all drinking water quality standards. The increased monitoring would be conducted for at least the first full year following placement of the well in service. (Exhibits APP-12 and 14).

During the November 3, 2008 public hearing, Larry Zimmerman of Amston expressed concern about additional potential sources of contamination to the groundwater that may not have been evaluated as part of the evaluation of the Nuteck Well. The DEP's Remediation Division, specifically Maurice Hamel, confirmed that all buildings associated with historic industrial activities in the immediate vicinity of the property were located on the parcel itself, and as such, were addressed in the environmental site assessment. In addition, a concern about a former gasoline service located north of the water supply well was also raised during the public hearing. Maurice Hamel concluded that based on regional topography, groundwater flow at the gas station would be to the west or southwest towards wetlands associated with Raymond Brook, and further, that given the relatively low pumping rate being proposed for Nuteck Well and the half mile separation between the properties, there is no potential for impaired groundwater from the gas station site. (Exhibit DEP-32).

Based on that information, the diversion does not conflict with the Town of Hebron's interests.

#### **H. 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 Site and diversion are not located within any area identified as habitat for endangered, threatened or special concern species. (Exhibit APP-1, Attachment K). Therefore, approval of the diversion permit will not have any effect on such species.

#### **I. Other Required Permits**

The Applicant must obtain Well Site and Well Use Approvals, from the Department of Public Health ("DPH"), for the Nuteck Well as a source of public water supply. (Exhibit DEP-10). The outstanding concerns of the DPH were identified in December 21, 2006 correspondence to Birmingham Utilities, Inc. The DPH also requested clarification regarding the number of proposed well site locations in the Nuteck wellfield. (Exhibit DEP-10). In August 25, 2008 correspondence from the Applicant to the DPH, the Applicant addressed this issue. (Exhibit APP-12).

**J. R.C.S.A. § 22a-377(c)-2(f)(1) Requirements**

The diversion, which is a groundwater diversion from three bedrock wells, 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. (Exhibit App-1, Attachment K; DEP 12). Therefore, the Applicant has demonstrated that the diversion is consistent with the requirements of R.C.S.A. § 22a-377(c)-2(f)(1).

**K. R.C.S.A. § 22a-377(c)-2(f)(2) Requirements**

No evidence of stress or wetland impacts resulting from potential groundwater drawdown associated with well withdrawals is expected and, as this is a ground water withdrawal, there are no measurable impacts to surface water. (Exhibits APP-1, Attachment D9 and Attachment K).

The water level for two of the three wetland systems located in the vicinity of the Firehouse Well are associated with the lake discharge stream controlled by Amston Lake. Thus, the proposed withdrawals from the bedrock well will not have an adverse impact on these wetland systems. A third wetland has been observed to be a healthy system under the existing pumping conditions (60 years). The proposed diversion is not any greater than the historic withdrawals; therefore, no adverse impact to this system is anticipated.

Both wetland systems in the vicinity of the Island Beach Well are controlled by shallow ground water and surface-water runoff, therefore, the withdrawals from the bedrock aquifer should not have an impact on these systems. Moreover, the proposed diversion request is not greater than the historic withdrawals, further supporting the conclusion that the proposed diversion of the two bedrock wells would not impact the wetland systems.

Because the bedrock aquifer and the features on the land surface are separated by approximately 25 feet of unconsolidated material, and because testing has shown minimal impact to the nearby overburden well (located approximately 75 feet away), the proposed use of the Nuteck bedrock well will not have an adverse impact on the onsite impoundments and offsite wetlands.

Therefore, the Applicant has demonstrated that the diversion is consistent with the requirements of R.C.S.A. § 22a-377(c)-2(f)(2).

**L. R.C.S.A. § 22a-377(c)-2(f)(3) Requirements**

The equipment and material associated with the diversion will not have any significant effect on potential floodplain storage, and the underground equipment will not create any floodplain hazard. (Exhibit APP-1, Attachment A). Therefore, the Applicant has demonstrated that the diversion is consistent with the requirements of R.C.S.A. § 22a-377(c)-2(f)(3).

**M. R.C.S.A. § 22a-377(c)-2(f)(4) Requirements**

The diversion is not located within a coastal area. (Exhibit App-1).

**N. R.C.S.A. § 22a-377(c)-2(f)(5) Requirements**

P.A. 05-205 has removed this compatibility test from Con. Gen. Stat. § 22a-366.

**O. The Draft Permit and Proposed Permit Conditions**

CTDEP Staff has proposed the issuance of a water diversion permit to the Applicants, Authorizing the Applicant to divert waters of the state at 1) the Firehouse Well located in the southeast corner of Hebron on the west side of Amston Lake, 2) the Island Beach Well located on the east side of Amston Lake in the town of Lebanon, and 3) the Nuteck Well located nearby in the village of Amston in the town of Hebron in accordance with the Application. The stated purpose of the diversion is to provide public water supply. (Exhibit DEP-20).

By virtue of the draft permit, the Applicant would be authorized to withdraw a total combined volume of 0.075 mgd from the Firehouse and Island Beach wells, and 0.0576 mgd from the Nuteck Well in accordance with the plans entitled "Water Distribution Plan," sheet 1, dated January 19, 2007, prepared by Lenard Engineering, and "Proposed Well/Proposed Site Plan," sheet 2 of 2, dated June 2006, prepared by Weston & Sampson, and documentation submitted as part of the application. (Id).

The CTDEP staff has proposed a series of special and general conditions to the draft permit. The proposed special conditions include the following:

1. The Applicant shall install and maintain, for the duration of this authorization, totalizing flow meter(s) to measure the total amount of water withdrawn from the Firehouse and Island Beach wells and a totalizing flow meter to measure the total amount of water withdrawn from the Nuteck Well for which withdrawals are authorized.
2. The Applicant shall maintain a daily record of the meter readings indicating the total volume of water in gallons withdrawn from the wells, as well as the typical hours of operation, the time of meter readings, and an explanation of any instances in which the diversion of water exceeded the authorized withdrawal limitations.
3. The Applicant shall conduct a system wide comprehensive leak detection survey of the water distribution system and repair any leaks every five year, based upon a designated schedule set forth in the draft permit.
4. The Applicant shall have their hydrogeologic consultant evaluate any report by any owner of a water supply well within 2000 feet of the Nuteck Well who believes the yield of their well(s) has been significantly impacted by the Applicant's operation of their water supply well. If it is determined by the Applicant's consultant or by the CTDEP that pumping of ground water on the site results in more than a negligible loss in the yield of the subject well(s), the

Applicant shall mitigate this loss in the yield of the affected well in one of the manners set forth in the draft permit.

5. The CTDEP shall have the right to restrict the authorized permit at any time the Commissioner in his judgment determines: 1) a declared local, regional or state-wide drought advisory, watch, warning or emergency necessitates restriction or reduction or 2) the continuation of the diversion may have an adverse effect on water quality, fisheries resources, aquatic habitat or public health.
6. Beginning in 2009, the Applicant shall biennially test and calibrate each source meter to within two percent accuracy as shown through a post-calibration test and maintain a record of the accuracy and calibration tests.
7. The Applicant shall implement its Long-Range Water Conservation Plan, as set forth in the Application, and in accordance with the Applicant's Water Supply Plan. Records documenting actions taken each year to implement the Long-Range Water Conservation Plan, and a description of estimated or actual water savings achieved must be maintained.
8. All information required under the draft permit must be retained at the subject site, or be readily available upon request. Records of all data used to compile all records and reports, along with the records and reports themselves, must be retained for at least three years after the expiration date of this permit.
9. A written report of any violation of the permit must be submitted to the Commissioner within 48 hours after the Applicant learns of the violation and must contain specified information as required by the draft permit.
10. The Applicant shall abandon Turner Road Well # 1 and # 2 pursuant to the Connecticut Well Drillers Code, and shall provide documentation of said abandonment as part of their first Annual Report.
11. Lastly, the Applicant shall submit by January 30<sup>th</sup> of each year of the authorization, an Annual Report for the preceding calendar year. Such report must contained specified information as required by the draft permit. (Id.)

The Applicant has reviewed both the special and general conditions contained in the draft permit and has no objection to their inclusion in the final permit. Because certain tax and other issues remain outstanding between the Town of Hebron and owner of the Nuteck parcel and require resolution before use of the well is possible; and because of the need to repair the well structure, install water main, and otherwise enable the Nuteck well to operate to the distribution system, the Applicant and CTDEP staff propose the inclusion of an additional special condition that would allow for the continued use of the Fire House and Island Beach wells at the 100,000 gpd rate currently authorized under Consent Order DIV-2007-1007V (Exhibit DEP-26). This special condition would authorize such



use for a period of two years, at which time the combined daily withdrawal would be limited to 75,000 gpd, consistent with the draft permit. The proposed special condition would read as follows (continuing the above numeration scheme):

12. The Applicant shall not be limited by the authorized Fire House and Island Beach withdrawal rate of 0.075 mgd for a period of two years following issuance of the permit; provided, however, that the wells' withdrawal shall not exceed 0.100 mgd during this period. This special condition shall terminate upon activation of the Nuteck well, unless already expired.

### **Proposed Conclusions of Law and Decision**

#### **I. Jurisdiction**

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

. . . 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 Environmental Protection]

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

#### **II. Regulatory Requirements**

##### **A. Application Contents**

Conn. Gen. Stat. § 22a-369 requires an applicant for a diversion permit to submit the 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 to 22a-378. In addition, the application must, at a minimum, contain the information specified in Conn. Gen. Stat. § 22a-369. CTDEP regulations also specify requirements for the contents of diversion permit applications (see RCSA § 22a-377(c)-2); as well as that specified in DEP-IWRD-APP-100 (Exhibit APP-1), as evidenced by DEP staff's completeness determination pursuant to Conn. Gen. Stat. § 22a-371 as contained in its Notice of Tentative Determination (Exhibit DEP-18) as well as the Hearing Officer's personal review of the record. Accordingly, the application contains that material required pursuant to applicable law.

##### **B. Procedural Requirements**

Based on the record, the procedural requirements of Conn. Gen. Stat. §§ 22a-370, 22a-371(c), (d), and (f), and 22a-372(e) have been fulfilled. (Exhibits App-1, DEP-18).

### **C. Standards for Issuing Permit**

Conn. Gen. Stat. § 22a-373 sets forth certain substantive matters which must be considered in rendering a decision on a diversion permit. In addition, 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 a substantial adverse impact on related 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 a substantial adverse impact on existing and planned water uses in the area affected such as a 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 are positive;

the proposed diversion will not have a substantial adverse impact on the existing water conditions, with due regard to groundwater availability, watershed characterization, potential, evapotranspiration conditions, and water quality;

there will be no substantial 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 substantial adverse effect on navigation from the proposed diversion;

the water to be diverted is necessary for the Applicant to meet current and projected demand and, considering all of the alternatives, is the best 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 not in substantial conflict with the interests of any municipality which would be affected by the proposed diversion;

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 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 476 a of the General Statutes and regulations thereunder;

the proposed diversion is not within and will not significantly affect the coastal area as defined by Conn. Gen. Stat. § 22a-94(a); and

**D. Conn. Gen. Stat. §22a-373(c) Requirements**

As a public water supply system formed and operating prior to enactment of the diversion policy act, significant expenditures and other resource commitments were made prior to July 1, 1982, in connection with the diversion at issue here. In addition, the diversion is identified in BUI's most recent, approved water supply plan. As a result, the requirements of Conn. Gen. Stat. § 22a-373(c) apply.

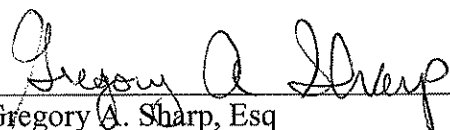
**E. Permit and Permit Conditions**

The Draft Permit meets all the statutory requirements and contains provisions that are sufficiently protective of the environment. The Applicant has not objected to any of the Draft Permit's terms and conditions. Accordingly, issuance of the diversion permit is recommended in its current form and wording (Exhibit DEP-20) except as may be needed to correct typographical errors, if any exist.

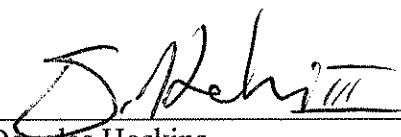
**AGREEMENT**

Based on the foregoing, the undersigned hereby agree to the granting of a permit subject to the general and special conditions stated in Exhibit DEP-20, Draft Permit, attached hereto.

APPLICANT, CONNECTICUT WATER  
COMPANY

By:   
\_\_\_\_\_  
Gregory A. Sharp, Esq  
Murtha Cullina LLP  
CityPlace I, 29<sup>th</sup> Floor  
185 Asylum Street  
Hartford, CT 06103-3469  
Telephone: (860) 240-6000  
Facsimile: (860) 240-6150  
Its Attorneys

INLAND WATER RESOURCES DIVISION

By:   
\_\_\_\_\_  
Douglas Hoskins

CERTIFICATION

I hereby certify that a copy of the Agreed Draft was hand-delivered on the 7<sup>th</sup> day of  
November, 2008 to:

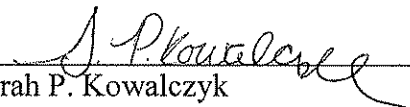
Ms. Jean Dellamarggio  
DEP Office of Adjudications  
Department of Environmental Protection  
79 Elm Street  
Hartford, CT 06106-5127

I hereby certify that a copy of the Agreed Draft was mailed, postage prepaid, first-class  
mail this 10<sup>th</sup> day of November, 2008 to:

Mr. Douglas Hoskins  
Inland Water Resources Division  
Department of Environmental Protection  
79 Elm Street  
Hartford, CT 06106-5127

Mr. Jared Clark  
Town of Hebron  
15 Gilead Street  
Hebron, CT 06248

Ms. Valerie Watt  
80 Gilead Street  
Hebron, CT 06248

  
\_\_\_\_\_  
Sarah P. Kowalczyk

**DRAFT PERMIT**

PERMITTEE: Connecticut Water Company  
93 West Main Street  
Clinton, CT 06413

PERMIT NO.: DIV-200700956  
TOWN: Hebron, Lebanon  
WATERS: Ground waters

Pursuant to Connecticut General Statutes section 22a-368, Connecticut Water Company (the "permittee") is hereby authorized to divert the waters of the state at 1) the Firehouse Well located in the southeast corner of Hebron on the west side of Amston Lake, 2) the Island Beach Well located on the east side of Amston Lake in the town of Lebanon, and 3) the Nuteck Well located nearby in the village of Amston in the town of Hebron (the "site") in accordance with the permittee's application dated March 22, 2007, filed with this Department on March 26, 2007 and described herein. The purpose of the diversion is to provide public water supply.

**AUTHORIZED ACTIVITY**

The permittee is authorized to withdraw a total combined volume of 0.075 million gallons per day (mgd) from the Firehouse and Island Beach wells, and 0.0576 mgd from the Nuteck Well in accordance with plans entitled "Water Distribution Plan", sheet 1, dated January 19, 2007, prepared by Lenard Engineering, and "Proposed Well / Proposed Site Plan", sheet 2 of 2, dated June 2006, prepared by Weston & Sampson, and documentation submitted as a part of the application.

**PERMITTEE'S FAILURE TO COMPLY WITH THE TERMS AND CONDITIONS OF THIS PERMIT SHALL SUBJECT PERMITTEE AND PERMITTEE'S CONTRACTOR(S) TO ENFORCEMENT ACTIONS AND PENALTIES AS PROVIDED BY LAW.**

**SPECIAL CONDITIONS**

1. **Metering of Withdrawals.** The permittee shall install totalizing flow meter(s) to measure the total amount of water withdrawn from the Firehouse and Island Beach wells and a totalizing flow meter to measure the total amount of water withdrawn from the Nuteck Well for which withdrawals are authorized herein, and shall for the duration of this authorization continuously operate and maintain such meters in good working order. In the event of meter malfunction or breakage, the permittee shall repair or replace such meter within 72 hours. The permittee shall secure such meter in a locked facility, with access controlled solely by the permittee or other designee.

2. **Daily Withdrawal Record.** The permittee shall maintain a daily record of the meter readings indicating the total volume of water in gallons withdrawn from the Firehouse and Island Beach wells and the total volume withdrawn from the Nuteck well that day. The daily record shall also record the typical hours of operation, the time of meter readings, and denote and explain any instances in which the diversion of water exceeded the authorized withdrawal limitations specified in this permit. A copy of the daily record of withdrawals shall be included in the Annual Report to the Commissioner as required by Special Condition #11 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 water distribution system and repair any leaks found. The leak detection survey shall follow standards and criteria contained within the 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 Special Condition #11 of this permit. The permittee shall undertake such leak detection surveys on or before November 1, 2010, November 1, 2015 and November 1, 2020.
4. **Water Well Guarantee.** Any owner of a water supply well within 2000 feet of Nuteck Well, who believes the yield of their well(s) has been significantly impacted by the permittee's operation of their water supply well(s) should notify the permittee and the Department of this situation. The permittee shall respond by having their hydrogeologic consultant evaluate the situation, report to the permittee, the Department and to the concerned well owner(s) their findings as to the existence, nature, extent and/or cause of the alleged impact. If the assessment of the permittee's hydrogeologic consultant determines that the pumping of the Nuteck Well has no direct impact on the subject well, and the Department concurs with the assessment, then the permittee will not be required to assist the subject well owner with well yield mitigation measures as outlined below. In the event that the permittee's hydrogeologic consultant or the Department determines that pumping of ground water on the site results in more than a negligible loss in the yield of the subject well(s), the permittee shall mitigate this loss in yield of the affected well by implementing, at its cost, one or more of the following actions:
  - a) If pre-permit yield can be restored by setting the pump at a lower depth in the existing well, the pump will be lowered in the well as necessary.
  - b) If the affected well is too shallow to accommodate resetting the pump to restore pre-permit yield, but is capable of being deepened, the well will be deepened and the pump reset to restore pre-permit yield.

- c) If lowering the pump or deepening the well are insufficient methods to restore pre-permit yields, a new well that reestablishes pre-permit yield will be installed on the property of the affected well owner.

If none of the above actions restore adequate household supplies, the well owner will be connected to the public water supply.

5. **Other Restrictions.** The DEP 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 advisory, watch, warning or emergency necessitates restriction or reduction of [non-essential] water uses, or b) the continuation of the diversion may have an adverse effect on water quality, fisheries resources, aquatic habitat or public health.
6. **Meter Calibration and Reporting.** The permittee shall biennially, beginning in 2009, 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.
7. **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 Special Condition #11 of this permit.
8. **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 three years after the expiration date of this permit.
9. **Recording and Reporting Violations.** Within 48 hours after the permittee learns of a violation of this permit, the permittee shall submit in writing a report of the violation 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 discovered 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 time(s) it was corrected,
  - e. If the violation(s) has not ceased, the anticipated date when it will be corrected; and
  - f. Actions taken and actions planned to prevent a reoccurrence of the violation(s) and the date(s) such actions were implemented or will be implemented.
10. **Turner Road Well Abandonment.** The permittee shall abandon Turner Road Well #1 and Turner Road Well #2 pursuant to the Connecticut Well Drillers Code, and shall provide documentation of said abandonment as part of their first Annual Report due January 30, 2009, as required by Special Condition #10.
11. **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 #11 of this permit and shall contain the following:
- a. A copy of the record of daily withdrawals and hours operated as required by Special Condition #2 of this permit,
  - b. A copy of the leak detection report as required by Special Condition #3 of this permit,
  - c. Summary report of all the actions taken pursuant to the Long-Range Water Conservation Plan and Water Conservation Plan and description of actual or estimated water savings achieved, as required by Special Condition #7 of this permit,
  - d. Denotation and explanation of any instances of violation of the authorized withdrawal limitation(s) or any other condition of this authorization as required by Special Condition #9, and
  - e. Documentation of well abandonment as required by Special Condition #10.

## GENERAL CONDITIONS

1. 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.
2. 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.

3. 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, 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.
4. 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.
5. 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.
6. 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 other time.
7. 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.
8. In constructing or maintaining any structure or facility or conducting any activity authorized herein, or in removing any such structure or facility under paragraph 4 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. 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.

9. This permit is not transferable without the prior written consent of the Commissioner.
10. This permit shall expire on [25 years].
11. **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 and certify that based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief, and I understand that any false statement made in this document or its attachment may be punishable as a criminal offense in accordance with Section 22a-376 under 53a-157 of the Connecticut General Statutes."

12. **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  
DEP/Inland Water Resources Division  
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" as used in this permit 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.

DIV-200700956  
CT Water – Amston Lake  
Page 7 of 7

This authorization constitutes the permit required by section 22a-368(b) of the Connecticut General Statutes.

Issued as a permit of the Commissioner of Environmental Protection on

Gina McCarthy  
Commissioner