

VI. RECOMMENDATIONS

A. Administrative Recommendations

The Department recommends consideration of the following administrative measures for further study.

(1) Coordination Of Authorities

The Department recommends the consolidation and integration of Connecticut's existing agency-based water resource planning programs under one comprehensive water resource planning process to be carried out or coordinated by a single agency.

As presented in this report, various elements, policies and authorities for water resource planning currently exist within the authorities of Connecticut's Executive Branch Agencies. These programs are often not coordinated effectively between the agencies and the public, nor does any one agency planning effort evaluate the needs of constituencies outside of that agency's traditional client base. Connecticut would benefit from a comprehensive, integrated water-planning program to fully evaluate the water resource needs and challenges for the state. In addition to involving traditional agency-specific interest groups who are typically engaged in the ongoing planning efforts by specific executive branch agencies, new interest groups should be included in the planning process. These interest groups include agricultural entities, recreation interest groups, power producers, industrial users, irrigators and municipalities. Development of a comprehensive water management plan for Connecticut would be strengthened with input from these groups who do not have a forum to present their water resource interests or needs. This comprehensive planning effort is not proposed to replace existing agency-specific planning efforts rather this process would integrate those ongoing efforts and adjust priorities where needed to enhance the state-wide plan. This effort would be an expansion of §22a-352 of the CGS which tasks OPM, DEP, and DPH to undertake a statewide plan to evaluate waste water assimilation and potable water needs for the state.

(2) Adoption of additional necessary authorities

The Department further recommends development of additional authorities to implement Connecticut's comprehensive water resource plan following its adoption.

Once a statewide water resource plan is adopted, its recommendations will need to be implemented for the plan to be successful. Recommendations are likely to include strategies to: enhance existing data acquisition efforts and initiate new efforts to gather additional water resource information; develop programs and authorities to foster statewide water resource planning efforts; encourage better coordination between executive branch agencies; and promote the involvement of new water resource interest groups and their priorities within the statewide planning process. In addition to statutory authorities and state agency actions to support the plan, resources will be needed to support its implementation. Budget allocations for the coordinating agency will be necessary to support the plan's development and the implementation of its recommendations.

B. Task Force Initiatives

The Department of Environmental Protection recommends the development of a task force to evaluate and provide recommendations, including legislative revisions, to address the following proposed revisions to the Water Diversion Policy Act:

(1) Modifying Registration Program

Renewal Process

Under the Act there is no procedure to review, modify, or retire unused or inactive registrations filed in 1983. This means that the Department often does not learn that a registrant is no longer using the amount of water that he has registered, and that that amount of water is available for other uses. The Department recommends that registrants be required to renew their registrations every five years. Renewal filings would be required to document the current and

future need for the water diversion. A procedure would be established to retire diversions for which the need no longer exists, through a public notice and opportunity for a hearing.

In addition there is no requirement under the Act for registrants to notify DEP of address changes or contact names changes. As a result the registration inventory contains mostly 1983 information, which is virtually unusable to contact registrants or perform a mailing. This directly hampered investigation of current or planned use of registered water. Therefore, the Department also recommends that the renewal filing be used to update basic registrant information.

Failure to renew or update contact information would result in discontinuation of the registration. Subsequent to the renewal filing, DEP would periodically publish a report of valid, active registrations.

Establishment of authority to assess the environmental effects of registered diversions and to order mitigation measures:

The Department recommends statutory language to authorize periodic review and investigation of registered diversions in order to assess their environmental effects and to further authorize the Department to issue an order to a registrant whose diversion is causing substantial and avoidable damage to water resources requiring mitigation measures including but not limited to reducing the amount, rate or frequency of an withdrawal balanced with public health considerations and the extent to which the diversion is necessary and is a priority use.

End the registration petition process created by Department regulation:

In order to make future allocation decisions, the department must be able to maintain a static baseline of water allocated through the registration process. The existing petition process allows a registrant to request amendments to its registration at any time and for any reason. After review of the diversion inventory contained within this report, the Department recommends that the registration petition process be closed.

(2) Address Unauthorized Water Diversions/Permit Compliance

Improper or illegal water diversion can adversely affect the environment and restrict legitimate users from further diversion opportunities. The Department is also requesting funding

for enhanced staff to track compliance with permit conditions and investigate unauthorized water withdrawals.

Amnesty for certain unregistered, unpermitted diversions:

The Department proposes the creation of a limited amnesty for certain classes of water users, including community water supplies and family farmers, who failed to properly register existing water use in 1983. This will encourage currently unauthorized water users who might fear penalties for past water use to come into compliance with diversion requirements. The amnesty would forego penalties for past use provided that within the amnesty window the unregistered / unpermitted diverters do one of the following: apply for a diversion permit; discontinue water withdrawals; or restrict water withdrawals to below the diversion act threshold of 50,000 gallons per day.

Compliance Monitoring

New staff would also be dedicated to review: water use records for consistency with permit restrictions and for exceedence of the diversion regulatory threshold; available databases and watershed information to investigate unauthorized water diversions.

Strengthen enforcement tools

Currently it is difficult to document that diversions located in the field or subsequent to a complaint investigation may be subject to a diversion permit or in violation. Effective enforcement requires additional tools. The Department recommends statutory authority be established allowing the department to request that information be furnished relating to suspected violations of the Water Diversion Policy Act, including installation and maintenance of equipment to record water withdrawals.

(3) Establishment of authority to promote interconnections, and water supply sharing

The Department recommends revisions to C.G.S. §22a-373(d) to provide that permit applicants seeking to develop a new water supply source shall, whenever feasible and prudent, avoid new source development if interconnection and supply sharing can be achieved consistent with instream flow preservation.

(4) Establishment of authority to set priorities for water allocation

The Department proposes to develop prioritization criteria as a component of managing water use and the future development of consumptive diversions. This will direct the department and applicants regarding state allocation priorities when there are competing uses or applications for water allocations.

(5) Basin-wide studies

The Department proposes statutory authorization to perform basin-wide studies of water use, including permitted, registered, and unauthorized diversions. This will assist the Department in addressing watershed flow and allocation issues and will assist both the Department and local governments in determining how much water in a watershed remains for new diversions and would be the baseline for setting priorities.

(6) Establishment of a process for watershed closure

The Department recommends that the Diversion Act be amended to allow the establishment of a procedure (to include an administrative hearing) for closing a watershed to additional consumptive withdrawals, based upon the results of a comprehensive basin study. This will protect over-allocated watersheds from further pressures by directing diversion applicants to other areas and avoid unnecessary expense and delays by applicants.

(7) Streamline general permits

The Department requests statutory revisions which would modify the general permit authorization to increase flexibility and create a three-tiered approach similar to the general permit statutes administered by other programs. The proposed general permit categories are: 1) automatic coverage; 2) notification filing; and 3) approval required. Additional categories of coverage are also anticipated to be incorporated as general permits are renewed.

(8) Fees

Registration renewal and transfer fees are proposed to support program functions and partially fund the hiring of additional staff to review applications in an expeditious manner.

Registration Renewal Fee

A registration renewal fee, similar to permit renewal fees, is proposed. The renewal fee

would be due every five years and would be consistent with the existing fee structure for permit applications and permit renewal, and would be deposited into the Environmental Quality Fee Fund.

Registration and Permit Transfer Fee

The Department also proposes to establish fees for processing transfer of registrations and permits.

C. Other Recommendations

(1) Water Conservation

The Department recommends development of a comprehensive water conservation policy that would require (1) cost-effective water conservation measures be implemented prior to requesting a new source; and (2) conservation practices to be implemented by all diverters. The Department proposes to establish core water conservation measures which must be implemented prior to requesting an additional allocation of water and to modify the diversion regulations to require compliance with these core measures as a prerequisite to a diversion permit application.

(2) Instream flow standards

The Department requests funding for hiring recognized experts in hydrology and aquatic habitat to assist the Department in developing an instream flow methodology specific to Connecticut basins and streams as previously described. The department will then apply the methodology on a watershed by watershed approach applied to each of the five major basins in Connecticut. A watershed atlas would subsequently be published to assist potential diversion applicants and resource managers on instream flow targets.

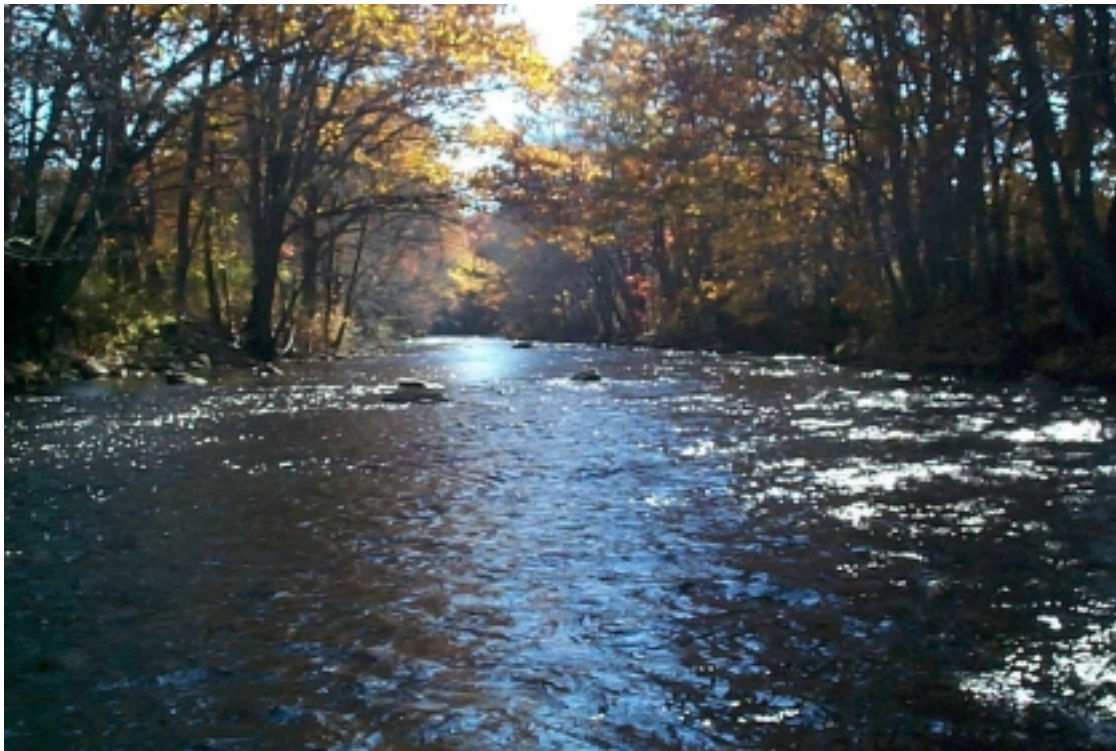
(3) Water Supply Sharing and Development of Alternative Supplies

The Department proposes to work together with applicants, the Department of Public Health, the Office of Policy and Management and the Department of Public Utility Control to avoid environmental effects of new source development by promoting interconnections, water supply sharing, and reservoir expansion. In addition, the Department recommends that development of Class B water resources for non-potable purposes such as industrial supply

substitution, cooling water, process water, irrigation etc. be encouraged and promoted wherever feasible and prudent.

(4) Staffing and Other Program Enhancements

The Department requests sufficient staffing to review registrations, perform basin studies, monitor stream flows, perform fisheries surveys, provide technical assistance and respond more promptly to permit applications in order to effectively manage the diversion permit program. In addition, the Department seeks additional funds in its budget line-item associated with the Department's cooperative program with the United States Geological Survey for continuous monitoring of stream flow and water quality.



Moosup River, Plainfield, CT