

Legislative History for Connecticut Act

HB 5883	82-402	1982
House	4010-4011, 6233-6281	49
Senate	4277-4285, 4351	9
Env. Com.	781-784, 786-789, 791-792, 799-804, 826-827, 831-832, 835-841, 849-851, 856-857, 858-875, 876-878, 882-884, 886-890, 897-913, 921-926, 982 (73 p.)	131 total

Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate and House of Representatives Proceedings

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CONNECTICUT  
GEN. ASSEMBLY  
HOUSE

PROCEEDINGS  
1982

VOL. 25  
PART 12  
3825-4124

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House of Representatives

Thursday, April 22, 1982

will please take a tally.

Would the Clerk please announce the tally.

CLERK:

House Bill No. 5401, as amended by House "A".

Total number voting 139

Necessary for passage 70

Those voting yea 133

Those voting nay 6

Those absent and not voting 12

DEPUTY SPEAKER FRANKEL:

The bill as amended is passed.

CLERK:

Page 7, Calendar 298, Substitute for House Bill

5883, AN ACT CONCERNING WATER DIVERSION. Favorable  
Report of the Committee on Environment.

REP. GROppo: (63rd)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Groppo.

REP. GROppo: (63rd)

May this bill be referred to the Committee on  
Judiciary.

DEPUTY SPEAKER FRANKEL:

Is there objection to the motion? Is there

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objection? Hearing none, it is so ordered.

CLERK:

Page 7, Calendar 306, Substitute for Senate Bill 442, AN ACT CONCERNING THE COMMUNITY DEVELOPMENT PROGRAM. Favorable Report of the Committee on Planning and Development.

REP. POWERS: (37th)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Powers.

REP. POWERS: (37th)

Thank you, Mr. Speaker. I move acceptance of the Joint Committee's Favorable Report and passage of the bill in concurrence with the Senate.

DEPUTY SPEAKER FRANKEL:

The question is on acceptance of the Joint Committee's Favorable Report and passage of this bill in concurrence with the Senate. Will you remark, sir?

REP. POWERS: (37th)

Yes, Mr. Speaker. Thank you. Mr. Speaker, members of the House. This bill amends Connecticut's Enabling Law that permits municipalities to participate in the Federal Small Cities Program. Recent federal action

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Would the members please return to the Chamber immediately.

Have all the members voted? If so, the machine will be locked. The Clerk will please take a tally. Will the Clerk please announce the tally.

CLERK:

Senate Bill 571.

Total number voting            146

Necessary for passage            74

Those voting yea            144

Those voting nay            2

Those absent and not voting    5

DEPUTY SPEAKER FRANKEL:

The bill is passed.

CLERK:

Page 4, Calendar No. 298, Substitute for House

Bill 5883, AN ACT CONCERNING WATER DIVERSION. Favorable Report of the Committee on the Judiciary.

REP. BERTINUSON: (57th)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Terry Bertinuson.

REP. BERTINUSON: (57th)

Mr. Speaker, I move for acceptance of the Joint Committee's Favorable Report and passage of the bill.

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DEPUTY SPEAKER FRANKEL:

The question is on acceptance and passage. Will you remark?

REP. BERTINUSON: (57th)

Mr. Speaker, there is an amendment, LCO 3587. I would ask if the Clerk would call and I be allowed to summarize.

DEPUTY SPEAKER FRANKEL:

The Clerk has LCO No. 3587, which will be designated House Amendment Schedule "A". Would the Clerk please call the amendment.

CLERK:

LCO No. 3587, Schedule House Amendment "A", offered by Rep. Bertinuson, 57th District.

DEPUTY SPEAKER FRANKEL:

The Representative has sought permission of this Chamber to summarize this amendment in lieu of Clerk's reading. Is there objection? Hearing none, you may proceed, Rep. Bertinuson.

REP. BERTINUSON: (57th)

Thank you, Mr. Speaker. This amendment makes 3 rather substantive changes and then some technical language changes. It is an amendment that was adopted

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by the Committee as a whole and given its unanimous support.

The first change calls for the registration of diversions which already exist prior to the time of this legislation becoming effective.

The other 2 changes are exemptions which are added, 2 further exemptions to the provisions of the bill and those are diversions within extensions and relocation of water supply system distribution mains and road grade crossings or culverts which allow for continuous flow or passage of an existing watercourse.

I move adoption of the amendment.

DEPUTY SPEAKER FRANKEL:

The question is on adoption of House Amendment Schedule "A". Will you remark on its adoption?

REP. BERTINUSON: (57th)

Briefly, Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Bertinuson.

REP. BERTINUSON: (57th)

Thank you, Mr. Speaker. The first part of this does address some problems that we had with the initial version of the bill where we were calling for permitting

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of already existing diversions. This makes it clear that they will not need to be permitted, they will simply need to be registered. It will give us information that we need to know about where the water supplies are going in the state and it will not be a burden on the water companies.

I think it's a good amendment and I urge its adoption.

DEPUTY SPEAKER FRANKEL:

Will you remark further on the adoption of House "A"?

REP. CASEY: (118th)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. T. J. Casey.

REP. CASEY: (118th)

Just to concur with Rep. Bertinuson. This has eliminated some of the problems that the industries and some of our colleagues had trouble with. I believe it is a good compromise. It makes the water diversion bill better, and I certainly urge my side and the other side of the aisle to concur with Rep. Bertinuson and myself and support this legislation.

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DEPUTY SPEAKER FRANKEL:

Will you remark further on the adoption of  
House Amendment Schedule "A"?

If not, all those in favor please signify by  
saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER FRANKEL:

Those opposed nay.

The ayes have it. House "A" is adopted and it is  
ruled technical.

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House Amendment Schedule "A".

In line 21, after the word "development" strike  
out the words "established pursuant to section"

In line 22, before the word "of" strike out "16a-24"  
and insert in lieu thereof "adopted pursuant to Part I of  
chapter 297"

In line 41, before the word "basins" strike out the  
word "such" and insert the word "those"

After line 65, insert the following:

"Sec. 4. (NEW) Any person or municipality maintaining  
a diversion prior to or on the effective date of this act  
shall register on or before July 1, 1983, with the commis-  
sioner on a form prescribed by him the location, capacity,  
frequency and rate of withdrawals or discharges of said  
diversion and a description of the water use and water system.  
Any such diversion which is not so registered may be subject  
to the permit requirements of this act."

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In line 66, delete the words "Sec. 4. (NEW) (a)" and insert "(b)" in lieu thereof

In line 73, delete "(b)" and insert "(c)" in lieu thereof.

Strike out lines 130 to 141, inclusive, in their entirety and substitute the following in lieu thereof:

"Sec. 6. Thirty days prior to filing an application for a diversion permit pursuant to section 4 of this act, any person who intends to file for such application shall notify the chief executive officer of the town or towns in which the diversion will take place of such intent and shall cause notice of such intent to be published once at the applicant's expense in a newspaper of general circulation in the county or counties in which the proposed diversion will take place or have effect."

In line 180, strike out the words "department of"

In line 181, after the word "control" insert the word "authority"

In line 192, strike out the words "in a newspaper"

In line 226, after the word "with" strike out the word "title" and insert the word "chapter" in lieu thereof

In line 364, strike out the word "and"

In line 365, after the word "purposes" and before the period insert a semicolon and the following: "(6) diversions within, extensions and reallocation of water supply system distribution mains, and (7) roadway crossings or culverts which allow for continuous flow or passage of an existing watercourse"

In line 294, after the word "the" strike out the word "extention" and insert "extension" in lieu thereof.

DEPUTY SPEAKER FRANKEL:

Will you remark further on this bill as amended by House "A"?

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REP. BERTINUSON: (57th)

Yes, thank you, Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Bertinuson.

REP. BERTINUSON: (57th)

Mr. Speaker and members of the House. This is not a Farmington River bill, it's not an MDC bill despite what you may have heard. This is major legislation that fills a serious gap in our water statutes as they presently exist.

I guess you perhaps would call it not landmark legislation, but watershed legislation. It does, and I promise not to use any water terms like muddying the waters. It does replace the current statutes that deal with DEP's authority over water diversions. They're very sketchy and give no detail. And it replaces them with a comprehensive, clearly defined process. It recognizes that we now know we cannot separate groundwater from surface water. They are indeed part of the same system. What we do to one affects the other.

The definition of diversion is broad and this has caused people some concern. However, we do have some specific exemptions from all the provisions of the

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bill and I would like to touch on those very briefly because I think they answer some of the concerns that people have had.

We do specifically exempt from all the provisions of the bill number one, one or more wells joined in one system whose flow, combined maximum flow is 50,000 gallons during a 24 hour period. That's the size of a well system that would supply approximately 200 dwelling units. So that's a substantial exemption. It exempts, it would only deal with withdrawal of over 50,000 gallons of surface water during a 24 hour period.

It would exempt discharges permitted by statute, it would exempt a storm drainage system which collects the surface water runoff of an area less than 100 acres. It would exempt water for fire emergency purposes, and then the 2 exemptions that we've added for basically both water mains and for roadway crossings.

The bill, in addition to adding a number of definitions, there are no definitions in the existing statute, puts a clearly defined application procedure and sets forth specific statutory standards upon which decisions must be based. These include such considerations as the effect of the diversion on related needs for public

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water supply, the effect of the diversion on existing and planned water uses, compatibility of the proposed diversion with the water policies and programs of Connecticut, and so forth.

These are the basic provisions of the bill as it's now amended. This will be a very valuable tool to the state in our long range planning and management of our precious water resources. There were initial problems with the bill. A lot of time has been spent with all interested parties working out those problems. I think we've addressed them all. I think the bill does have wide support among the people who will be most closely affected by it, and I urge your support for its passage.

REP. FARRICIELLI: (102nd)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Joseph Farricielli.

REP. FARRICIELLI: (102nd)

Mr. Speaker, the Clerk has an amendment, LCO 4024. I would ask the Clerk to call and I ask for permission to summarize.

DEPUTY SPEAKER FRANKEL:

The Clerk has LCO No. 4024, which will be

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designated House "B". Will the Clerk please call the amendment.

CLERK:

          LCO No 4024, House Amendment Schedule "B", offered by Rep. Farricielli of the 102nd District.

DEPUTY SPEAKER FRANKEL:

          The gentleman seeks permission to summarize. Is there objection? Hearing none, you may proceed, Rep. Farricielli.

REP. FARRICIELLI: (102nd)

          Mr. Speaker what the amendment does, on line 167, it reduces from 120 days to 90 days, and that's the time in which a hearing shall be scheduled.

          The second thing it does, in line 199 and 200, there is a separate definition for municipality. As municipality is used on line 45, it varies as used in the second section. The elimination of lines 199 and 200 would standardize the definition of municipality.

          There would be a new section put in on the hearing process within 90 days, and this would also require on line 376 for the Commissioner to adopt regulations within 90 days. I move adoption of the amendment.

DEPUTY SPEAKER FRANKEL:

          The question is on adoption of House "B". Will

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you remark on its adoption? Will you remark on the adoption of House "B"?

REP. MCCLUSKEY: (86th)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Dorothy McCluskey.

REP. MCCLUSKEY: (86th)

Would the Chamber please note that I am absenting myself due to possible conflicts.

DEPUTY SPEAKER FRANKEL:

Certainly. Please note that Rep. McCluskey has absented herself from the Chamber for a possible conflict of interest.

Will you remark further on the adoption of House Amendment Schedule "B"?

REP. CASEY: (118th)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. T. J. Casey.

REP. CASEY: (118th)

Yes, Mr. Speaker, I rise in objection to House Amendment Schedule "B". I believe shortening the hearing process, I have no idea why he would want to change the

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definition of municipality. But shortening the hearing process is only going to make the Commissioner put under the gun that much more. In 90 days if he doesn't have enough information, if he can't make a decision, he's going to have to deny the application. 120 days gives that additional time which is going to be required for the extensive amount of information that he's going to have to review. He might finish it in 50, depending on the size of the project in the application.

But 90 days I really believe is not in the best interests of the applicant nor in the best interests of the whole process. I urge defeat of this amendment and any subsequent amendments that might come before this Chamber today.

REP. BERTINUSON: (57th)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Terry Bertinuson.

REP. BERTINUSON: (57th)

Mr. Speaker, I must speak very strongly against this amendment. One of the most delicate parts of the negotiation of putting this bill together was to get some agreement on the time line. And there is a clear

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danger in making that time line too short. You would then risk the necessity of making a decision with too little information and I think in that case, clearly the Commissioner would be very much inclined to rule against the permit. I think we should not tamper with this.

The change of the definition of municipality was put in here very specifically. Municipality in the definition section covers all those bodies which might be applying for a diversion permit. In the section in which the definition of municipality is changed, that's only to show an actual location of a town so that you're talking about the chief elected official of a municipality. We need that in since he would be one of the parties to public hearings.

That amendment would really seriously flaw the bill and I urge your rejection of the amendment.

REP. FARRICIELLI: (102nd)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Farricielli.

REP. FARRICIELLI: (102nd)

Mr. Speaker, there apparently seems to be some

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misunderstanding what this amendment does. Let's look at the hearing process that Rep. Casey mentioned. The present language says the hearing shall be scheduled 120 days of the notification. We're just dropping that to 90 days. We're not taking anything away.

Let's look at the definition of municipality. In the beginning we have a definition of municipality and it says that if any of these municipalities under the definition do anything, they have to notify the Department of Environmental Protection. But then when we turn the page and we say what the Department should do, we have a different definition of who the Department shall notify. In the first section, the MDC would be considered part of the party as municipality but when we redefine what a municipality is and who the DEP should notify, they do not have to notify the MDC.

This is a clear flaw in the bill. And this amendment would merely clean that up. It's not doing any harm to this bill whatsoever. If we're going to require regulations, we just put a date into the regulations. This does no harm to it and it standardizes it. I strongly urge you to support this amendment.

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DEPUTY SPEAKER FRANKEL:

Will you remark further on the adoption of  
House "B"?

REP. BELAGA: (136th)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Julie Belaga.

REP. BELAGA: (136th)

Thank you, Mr. Speaker. May I add my voice to those who have opposed this amendment. In fact a municipality that will be affected by any kind of a water diversion application needs more than 90 days to analyze it and evaluate it and this constraint that Rep. Farricielli has placed on this bill is unnecessary at this time.

If in the future we see that the hearing process is too prolonged, we can come back and look at it. But the Committee worked very hard to develop a very logical sequence of events and this is, there is simply no need to interject this at this point. I urge you to reject the amendment.

REP. BERTINUSON: (57th)

Mr. Speaker.

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DEPUTY SPEAKER FRANKEL:

Rep. Bertinuson.

REP. BERTINUSON: (57th)

Just briefly to respond again. I think that to abridge the time frame in here would be to threaten the process from either side, either from the applicant's side or the side of the agency trying to review the application.

The people who were involved in developing this legislation and trying to represent all interests, negotiated these time frames very carefully. Again, I believe there is an error in understanding as far as municipality. It is necessary to define it in two different ways for the purposes of this bill and I think anyone who has read the bill carefully would see that that's so. I do urge that you reject this amendment.

DEPUTY SPEAKER FRANKEL:

Will you remark further on the adoption of House "B"?

If not, all those in favor please signify by saying aye.

REPRESENTATIVES:

Aye.

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DEPUTY SPEAKER FRANKEL:

Those opposed, nay.

REPRESENTATIVES:

No.

DEPUTY SPEAKER FRANKEL:

The nays have it. House "B" fails.

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House Amendment Schedule "B".

In line 167, after the word "within" strike "one hundred and twenty" and insert in lieu thereof "ninety"

Strike lines 199 and 200 in their entirety.

In line 211, after the period, insert the sentence "Any continued hearing shall be within ninety days of such announcement and the entire hearing process shall be completed within one hundred and eighty days of the commencement of the initial hearing."

In line 376, after the word "statutes", insert "within ninety days of the effective date of this act".

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DEPUTY SPEAKER FRANKEL:

Will you remark further on this bill as amended by House Amendment Schedule "A"?

REP. MORGAN: 56th)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Chester Morgan.

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REP. MORGAN: (56th)

Mr. Speaker, just for my own piece of mind, a couple of questions to the proponent of the bill.

DEPUTY SPEAKER FRANKEL:

Please state your first question, sir.

REP. MORGAN: (56th)

Yes, Mr. Speaker, through you. Rep. Bertinuson, I think I among many have received quite a bit of correspondence on this. Among them was from my water company, that they felt and had estimated that the cost for preparation of documents and reports under this bill would cost my water company over \$4 million. With the adoption of House "A", does that relieve that as was delineated in those letters?

REP. BERTINUSON: (57th)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Bertinuson.

REP. BERTINUSON: (57th)

Yes, Mr. Speaker, through you. It's not specifically in House "A". What most of the water companies responded to was the original form of the bill. The original form of the bill called for permitting for new diversions, but

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it also said that after a 3 year period, a 3 year delay period, all existing diversions would also have to go through new permitting process.

This indeed I think perhaps the costs that were quoted were rather high, but it could have been a costly procedure for water companies. At the public hearing when we had many water companies testify, we made a point, the Committee made a point of asking each of these water companies if we were to remove that provision from the bill, would they find it acceptable. And they all indicated that they could live with it.

Obviously companies are not enthusiastic about legislation that does, that is for the purpose of regulating them. But they all indicated that that was their problem with the bill and that they could live with it as long as that provision was removed. And that is removed in the body of the bill actually.

REP. MORGAN: (56th)

Thank you, Mr. Speaker.

REP. ALLYN: (43rd)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Rufus Allyn.

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REP. ALLYN: (43rd)

Mr. Speaker, one thing I would like to comment is that the water companies in response to Rep. Morgan, the water companies that did testify are basically your larger facilities. I think the impact will really probably be felt by your smaller water companies. The Committee did make some changes in there relative to water mains which will solve some of their problems. But I think your major problem as far as these various regulations and so forth, are going to be felt by your smaller companies because they don't have the inhouse staff and have to hire consultants to prepare these rates.

As an example, that Senate Amendment "B" that you passed yesterday and that we sent over to the Governor under suspension of the rules, that will probably save one particular water company \$3,000 a year. Because what we're doing is we've allowed them to reopen a previous rate case rather than going in for an entirely new rate case. And that's just a small water company with 150 customers.

So I think that one change we made yesterday will save one particular water company, a small one, around \$3,000 a year. Because it's very expensive for small

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utility companies when they have to go out and hire outside consultants and they don't have the internal staff.

And the other part is that any time that a small utilities have to deal with these regulations is the time lag. This is another area where you get into some particular problems.

Mr. Speaker, the Clerk has an amendment, LCO 3832.

DEPUTY SPEAKER FRANKEL:

The Clerk has an amendment, LCO 3832, which will be designated House Amendment Schedule "C". Would the Clerk please call the amendment only.

CLERK:

LCO No. 3832, offered by Rep. Allyn of the 43rd District.

REP. ALLYN: (43rd)

Mr. Speaker, I move acceptance of the amendment and ask permission to summarize.

DEPUTY SPEAKER FRANKEL:

The gentleman seeks permission of this Chamber to summarize this amendment. Is there objection? Hearing none, you may proceed, Rep. Allyn.

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REP. ALLYN: (43rd)

Mr. Speaker, this amendment addresses a very specific, very particular problem. The town of Stonington is served by 4 water companies. One is the Connecticut American Water Company which serves the west end of the town. There's a class "C" water company which services Latimer Point, the Mason's Island Company that services Mason's Island and then we have the Westerly Water Company, which services the east end of the town.

This is a section of town which we're all very proud of because this is the former home of our esteemed Lieutenant Governor. It's also the area of town where we have our people are probably the ones that are most concerned with the town because their incomes are not consistent with a great many areas of Stonington.

In 1899 the Town of Stonington and Westerly entered into an agreement where the Town of Westerly comes in and is able to take water from the Town of Stonington, treat it and then distribute it to the customers both in Westerly and in Stonington at the same rate that they charge the people in Westerly.

With the passage of this bill, we will be overriding previous statutes that set up that authority. Therefore

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we will be breaking the statutes that set up the authority and the Town of Westerly will conceivably no longer have to supply us with water. And if they do supply us with water, they could charge any rates they want to.

I think this exemption covers just a particular instance. Right now the towns are negotiating and putting in new wells. The time frame is very important. Here again, the two towns are trying to get the water wells on line by this summer. Pawcatuck ran out of water this summer. They blasted last summer. They had no water for a few days. There is plenty of water there in the ground but we have to put wells in.

It is true that the Commissioner can make exemptions under this. But the problem there again is they have to do it through regulations. By the time the regulations are adopted and the Commissioner gives an exemption, the summer will be past and we will spend another summer without any water.

I urge adoption of this amendment.

REP. BERTINUSON: (57th)

Mr. Speaker.

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DEPUTY SPEAKER FRANKEL:

Rep. Bertinuson.

REP. BERTINUSON: (57th)

Mr. Speaker, I have supported many Stonington amendments since I've been in this Chamber, but this is one I simply cannot support. I understand Rep. Allyn's concern. It's a very local concern. I think that if there is need for an exemption, it can be done under the blanket exemption powers given to the Commissioner.

However the danger in an exemption like this being adopted at this stage of the development of the bill, I have no idea how many other water companies would fit that description and we could very well be endangering one of the real reasons for going with this diversion policy, is to be sure that we have a policy in place that will protect Connecticut against diversion of the Connecticut River by Massachusetts.

To open up a question of interstate water supply would be extremely dangerous to the bill. I urge that you will consider that and please reject this amendment.

REP. CASEY: (118th)

Mr. Speaker.

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DEPUTY SPEAKER FRANKEL:

Will you remark further on the adoption of House "C"? Rep. T. J. Casey.

REP. CASEY: (118th)

I too rise in opposition to the amendment. Although it seems like it's only targeted towards one small water company or maybe 4 small water companies that are based in Stonington, the overall ramifications of this, we don't know what's on the remainder of our borders or how many others could fall into that category.

And at this time to give that blanket exemption, I concur with Rep. Bertinuson. It is not in the best interests of this legislation or of the State of Connecticut. The concept that we're trying to address here is our water. Where it is and where it's going. It's in our best interests to know that. And I would urge defeat of this amendment.

REP. FLEMING: (16th)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Fleming.

REP. FLEMING: (16th)

Mr. Speaker, I rise in opposition to this amendment

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also. I've worked with the Environment Committee and watched them put a very delicate balance of interest together to come up with a bill that we could all agree on. From the point of view of a Representative from my district, I have some parochial interests in the bill itself and would like to see some changes in the bill. But I've been willing to go with the compromise bill because I think it's important to not only my district, but to the state.

So I would ask the members to go with the bill unamended. I do not intend to submit the amendments that I brought or had drafted by LCO because I think it could jeopardize the passage of this bill. So I would urge the members to reject this.

REP. ALLYN: (43rd)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Rufus Allyn.

REP. ALLYN: (43rd)

Mr. Speaker, Rep. Casey talked about the first amendment and started off by saying defeat this and all amendments. That's really a dangerous, I think, attitude. Just any amendment is a bad amendment, before it's even

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discussed. I would like to ask Rep. Fleming a question relative to the area of concern about this. Has your district, or any town in your district had zero water this past year?

REP. FLEMING: (16th)

Through you, Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Will you respond, sir?

REP. FLEMING: (16th)

Yes, Mr. Speaker, through you. No, no one in my town has had zero water. I'm not quite sure what you mean by zero water, Rep. Allyn.

REP. ALLYN: (43rd)

Through you, Mr. Speaker. What I mean by zero water is, has 25% of the population in your town turned on the faucet for a number of days and found actually no water? That's what I mean.

REP. FLEMING: (16th)

No, Mr. Speaker, that has not occurred in my town. But what I would say in response is that this bill is an attempt to get a handle on all of the water supply needs for the State of Connecticut. I think, as I said before, it's dangerous to pass an amendment which could

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affect the balance which was put together in this bill.

And so I would still reject this amendment.

REP. ALLYN: (43rd)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Allyn.

REP. ALLYN: (43rd)

I think the point is that we have a unique problem. In this particular town, they didn't have any water. And in all probability they're not going to have any water this summer. They're not going to have any water to drink, they're not going to have any water for fire protection.

That's what we're talking about, the health and safety of a certain bunch of people. And the attitude here that we shouldn't take any amendments, any amendment is a bad amendment or this one particular amendment is going to destroy the bill, I find very upsetting. You know I just hope that if you insist on defeating this amendment, that this summer when the people of Pawcatuck don't have any water to drink, wash or put out fires with, that you'll be willing to come down and supply some to them.

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REP. CASEY: (118th)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. T. J. Casey.

REP. CASEY: (118th)

Mr. Speaker, no one is going to leave this particular town which Rufus is referring to without water. It simply says that when they provide that water, they're going to have to comply with this legislation.

REP. THORP: (89th)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. David Thorp.

REP. THORP: (89th)

Mr. Speaker, I can certainly understand the difficulties that Rep. Allyn is talking about and might even be able to support the amendment, but it seems to me there is a technical difficulty with it. The other exemptions had to do with diversions. This would simply exempt the company.

I don't know whether anything constructive could be done about this at this late date, but it would seem

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to me to have the thing set existing diversions, we might have something we could go for. But this exemption of a company altogether is more than I can support. I would recommend its rejection.

REP. BERTINUSON: (57th)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Bertinuson.

REP. BERTINUSON: (57th)

Just a couple of things. Existing diversions are of course already exempted, all existing diversions are exempted. And the other concerns of Rep. Allyn are exactly the reason we need this bill, and we need it with the protections in it.

I am very sure that there's nothing in this bill that is going to deny provision of water to the towns that Rep. Allyn is concerned about. And in the long run, they will assure that there will be adequate water for all the towns in Connecticut.

I urge you to defeat this amendment.

REP. MURDOCK: (17th)

Mr. Speaker.

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DEPUTY SPEAKER FRANKEL:

Rep. Beatrick Murdock.

REP. MURDOCK: (17th)

Thank you, Mr. Speaker. A question through you to the proponent of the amendment.

DEPUTY SPEAKER FRANKEL:

Please state your question.

REP. MURDOCK: (17th)

Thank you, sir. Rep. Allyn, on the file copy it states interstate diversions on line 19 and 20 and the state plan of conservation and development. Would your amendment do any harm to that particular section of the bill?

REP. ALLYN: (43rd)

Through you, Mr. Speaker. No, it doesn't address that particular section. All it does is, and very honestly in the presentation of it, what it would do is it would exempt in effect the Westerly Water Department from this regulation, from these regulations.

REP. MURDOCK: (17th)

Through you, Mr. Speaker, wouldn't that be addressing harmful interstate diversion?

REP. ALLYN: (43rd)

It would be addressing interstate diversion. I

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think the thing is, is what relative to being harmful. As I say, the permit process that's taking place right now, the Department of Health from the State of Rhode Island has already inspected the site where they want to put the wells. The town has cleared the land. They've also relocated the Community Recreation and Elderly Center, because the Department of Health of Rhode Island objected to it being placed so close to the wells. It was within 500 feet of the well site.

It exempts this particular company in this particular area from the law. It does not do damage to the overall impact. This particular location is addressed in this, very specifically is at the bottom end of the stream. We're a waterfront community. When the water leaves this particular area, ground water escapes, it goes into the salt water.

So it would have no impact on any other community because they're all upstream.

REP. MURDOCK: (17th)

Thank you. Through you, Mr. Speaker, another question. If that is the case that this has gone as far as it has in the case of this particular company, Rep. Ally, would it not be grandfathered in under this

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bill?

REP. ALLYN: (43rd)

Through you, Mr. Speaker. No it wouldn't. Because this diversion hasn't taken place. We haven't drilled the wells. Right now we're in the process of getting approval by the Rhode Island State Department of Health. So that's the state we're in right now. We hope to drill the wells within the next month or two.

REP. MURDOCK: (17th)

Thank you, sir.

DEPUTY SPEAKER FRANKEL:

Rep. Murdock, you have the floor, madam.

REP. MURDOCK: (17th)

I would suspect that if they have a good cause that they would be able to proceed with their diversion in this case and I would think that the amendment would do harm to the file copy. It does have reference to interstate diversions, and to address one company's needs with such a broad brush, I think would be harmful. I urge the defeat of the amendment.

REP. ALLYN: (43rd)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Allyn, do you seek permission of the Chair to

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Speak for a third time?

REP. ALLYN: (43rd)

Please, Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

The gentleman seeks permission to speak for a third time. Is there objection from any member? Hearing none, you may proceed, sir.

REP. ALLYN: (43rd)

A question to Rep. Bertinuson. This act takes effect immediately, is that true?

DEPUTY SPEAKER FRANKEL:

Rep. Bertinuson.

REP. BERTINUSON: (57th)

Through you, Mr. Speaker. I believe it takes effect on July 1st of this year.

REP. ALLYN: (43rd)

Now does the Department have to adopt regulations prior to them being able to give an exemption?

DEPUTY SPEAKER FRANKEL:

Rep. Bertinuson.

REP. BERTINUSON: (57th)

Through you, Mr. Speaker. If you mean the blanket exemption under section 13-b, that would have to be done

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by regulation.

REP. ALLYN: (43rd)

Through you, Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Allyn.

REP. ALLYN: (43rd)

In order for the Commissioner to address the problem in Westerly/Stonington, would he have to have regulations on board before he could give them an exemption? That particular company an exemption?

DEPUTY SPEAKER FRANKEL:

Rep. Bertinuson.

REP. BERTINUSON: (57th)

Through you, Mr. Speaker. I believe he could not give a specific exemption until the regulations are in place. However, I would like to add that that is not until July 1st and if the company is in fact that close that they're ready to start drilling in a couple of months, there would be time for them to drill and then come under the provisions of the bill which only apply to future diversions.

REP. ALLYN: (43rd)

For legislative intent, then Mr. Speaker, would it be your interpretation then that if they've actually

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started drilling the well, they wouldn't have to comply with this?

DEPUTY SPEAKER FRANKEL:

Rep. Bertinuson.

REP. BERTINUSON: (57th)

Through you, that would be my understanding and this is not a question that has come up, but it does state commence, and I believe that the initiation of the diversion would be considered commencement and it would be considered an existing diversion if that occurred prior to the effective date of the act.

REP. ALLYN: (43rd)

Thank you, Representatives. Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Basically what we've been just told then, is that what we're being told is, I have to go home now, and tell my town and tell the Town of Westerly, look, rush the job. Never mind any surface. You have to overlook the safeguards or any particular planning you want to do. Let's do a crash program so we avoid having to come under this regulation.

You know, I think that's really bad policy. What we're doing is forcing this particular company to do now

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in order to avoid having to come under this regulation, wait for several months until the program, until the regulations are adopted, then you have to do a crash drilling job. And in fact they may be detrimental to the environment. They may do a lousy job because we don't have any controls on it right now.

I think that's one of the things that bothers me about some of this legislation. You know, you try to do a good thing. I agree with it. But in your insistence of not adopting any amendments, you're forcing one utility to do a crash program and it may not be in the best interests of the state.

I really urge adoption of this amendment.

REP. CASEY: (118th)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. T. J. Casey.

REP. CASEY: (118th)

Mr. Speaker, I believe this is for my third time, Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

The gentleman seeks permission of the Chamber to speak for a third time on this amendment. Is there

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objection? Hearing none, you may proceed, sir.

REP. CASEY: (118th)

Just to support what Rep. Bertinuson had to say in response to Rep. Allyn's questions. If it started now, yes, it would be considered, I believe, to read in the legislation, an existing diversion. But in terms if it doesn't start now, after July 1 the Commission is going to have the authority to make regulations. Yes, it can be drawn out over several months to come up with your final regulations.

But it's my understanding that emergency regulations can be implemented. And emergency regulation can be implemented in a couple of weeks. And I think that should be able to address Mr. Allyn's question. And I still urge defeat of this amendment.

DEPUTY SPEAKER FRANKEL:

Will you remark further on the adoption of House "A"?

REP. BELAGA: (136th)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Julie Belaga.

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REP. BELAGA: (136th)

One last voice on this. I would urge you to reject this amendment. In fact the implications of it are far greater than what Rep. Allyn has indicated to you. I think Rep. Bertinuson hit the nail on the head. In fact we have a problem with the diversion of the Connecticut River. We have a court case right now pending and I think such an amendment could indeed embarrass the Attorney General of Connecticut.

The implications are broad. And I think that we really must say no to this amendment.

DEPUTY SPEAKER FRANKEL:

Will you remark further on the adoption of House "C"?

If not, all those in favor please signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER FRANKEL:

Those opposed, nay.

REPRESENTATIVES:

No.

DEPUTY SPEAKER FRANKEL:

The nays have it. House "C" fails.

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House Amendment Schedule "C".

In line 364, strike the word "and"

In line 365, after the word "purposes" and before the period insert the following: ", and (6) out-of-state water companies as defined in section 25-32a of the general statutes supplying water on the effective date of this act to customers from waters that are within the state".

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DEPUTY SPEAKER FRANKEL:

Will you remark further on this bill as amended?

REP. SAVAGE: (50th)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Savage.

REP. SAVAGE: (50th)

Yes, Mr. Speaker. I would first like to compliment the Committee on doing a very needed job. I think, however, it may be just the tip of the iceberg on water and water rights legislation. As we go into the next decade, water is going to be the most important environmental consideration, if it hasn't been in the past.

We see in many areas of the country our water being mined and these mines being depleted. We see our land that produces our vegetables being salted by

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irrigation, continual irrigation from rivers that perhaps should not be used for this case. Here in Connecticut, we now have a bill before us that brings water into the forefront and starts regulation. To me that word is usually a no-no. I am very much opposed to most all regulation, as you know. But in this particular case, I see our future and as a bit of a futurist, we must regulate water as we have attempted to do in land usage.

I don't believe we have a choice and I don't believe our private individual concerns can come into this. We must look ahead. We have in this bill, I believe, a bill that protects the people that might be opposed to it as well as those seen to be general public consumer.

As in agriculture, I can see many advantages in this bill. And the protection it gives us. But I do have some concerns. And I would like to ask the proponent of the bill a question, if I might, through you, Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Please state your question, sir.

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REP. SAVAGE: (50th)

Yes. An agricultural concern that has been irrigating in the past, however weather conditions being what they might, they may not be irrigating on a regular basis year in and year out. But they may have irrigated say 2 years ago. And now again in 1983, the summer, they are going to need to use the system again. Do they then have to apply for a permit? Through you, Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Bertinuson.

REP. BERTINUSON: (57th)

Through you, Mr. Speaker. No, the amendment that we adopted, House "A", providing for registration very carefully says any person or municipality maintaining a diversion prior to or on the effective date of this act, to cover that kind of intermittent diversion that has existed in the past. On July 1st it may be raining and you're not using the irrigation but it is an established diversion and it is exempt. It doesn't even come under the provisions of this act, but would be registered as an intermittent diversion. The registration in effect is a protection for that kind of a diversion

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because it will clearly be on record that that was a diversion existing at the time of the passage of the legislation.

DEPUTY SPEAKER FRANKEL:

Rep. Savage, you have the floor.

REP. SAVAGE: (50th)

Yes, one other question. Agriculture is not a stagnant bed. It does move and change. We have land that has been out of production, come back into production. We have in this state new interests in orchards and vineyards. They're going in areas that may not have been used before. When we have a new installation, do you foresee any problem in getting these permitted? Through you, Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Bertinuson.

REP. BERTINUSON: (57th)

Mr. Speaker, through you. No, the whole purpose of this legislation is not to say that you can't have a diversion that exceeds the exempted amount. It's only to establish a practice. In the case of a new orchard seeking permission to divert, the same considerations would be applied as they are to any other. And if it's

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going to mean that the person downstream doesn't have any water in his tap, then clearly that would have to be considered. But the normal type of diversion that would be used for irrigation, there should be no problem, except that it would in fact have to be permitted so that that balancing kind of decision could be made.

REP. SAVAGE: (50th)

Thank you, Mr. Speaker. I would urge this body to support this legislation and pass the bill before it.

REP. DEMERELL: (35th)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. DeMerell.

REP. DEMERELL: (35th)

Mr. Speaker, I would join in congratulating the Environment Committee for bringing forward what I think is a very much needed addressing to the policy of water use in the state. I do, however, have some concern with the implementation of the bill, and in particular with some of our existing water companies as they are in a position to extend service lines. And was there, through you to Rep. Bertinuson, Mr. Speaker, was there consideration by the Committee over whether to use regional

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drainage basins as opposed to subregional drainage basins?

DEPUTY SPEAKER FRANKEL:

Rep. Bertinuson.

REP. BERTINUSON: (57th)

Through you, Mr. Speaker. This concern was in fact addressed and I believe perhaps all the members of this body received a communication from the Connecticut Water Company expressing that concern and we examined it very carefully with the Water Compliance Division of DEP. The whole Committee reviewed our original decision and decided that in fact that had been the best way to go.

If we were to go to regional, it would mean that very few of the diversions we are concerned over would have to make this statement. I should point out that it's not that definition of interbasin transfer, does not deal with whether it needs a permit or not. It only deals with whether an impact statement needs to be furnished. What decides whether they need a permit or not is the size of the diversion. And that's in the exemption section.

So to only require an impact statement on inter-basin transfers between the regional basins would probably

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never occur. It would not serve the purpose of the bill. And it was the decision of the, the clear unanimous decision of the Committee that this would not be an onerous burden put on the water companies. In most cases it would be only asking for information that they would have to have in order to go forward with that kind of a diversion.

DEPUTY SPEAKER FRANKEL:

Rep. DeMerell, you have the floor.

REP. DEMERELL: (35th)

I appreciate the answer on that, Mr. Speaker. I would only hope that indeed since there is some question of interpretation on exactly how onerous the process would be, that indeed the Chairman and the members of the Committee would maintain an open mind on this process and be willing to review it as it is put into effect.

REP. GIBSON: (40th)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Gibson.

REP. GIBSON: (40th)

Yes, Mr. Speaker. I'd like to also say the Environment Committee has worked hard and long on this.

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They took a bill that wasn't too good and did make it a half way decent bill. However, I also believe that we've put the cart before the horse on this bill. We're going into a study this summer. It could be horrendous what we're doing if you're subregion is in one part of your town versus the users of the water. It could become very, very expensive. I feel what we're doing here with this bill, is we're creating a water czar in this state and on those reasons, I'm going to oppose this legislation.

REP. TORPEY: (11th)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Richard Torpey.

REP. TORPEY: (11th)

I urge the members to support this bill. I think it does two very, very important things. It does address the concerns of the environment both today and it's flexible enough that I think it will address it in the future and also it establishes some uniform organized method of diverting water.

These are two excellent reasons why I think we should support it. Thank you, Mr. Speaker.

REP. NEUMANN: (62nd)

Mr. Speaker.

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DEPUTY SPEAKER FRANKEL:

Rep. Neumann.

REP. NEUMANN: (62nd)

Thank you, Mr. Speaker. Just briefly, I, too, would rise in support of this bill. The need for this legislation, obviously, grew out of a specific situation last fall. I think the fact that both parties involved in that dispute have now endorsed the bill. To some degree, represents the fact that we may be able to resolve the differences on that.

And I want to thank the Chairman of the Environment Committee for the involvement in this legislation and the help over the last six months and urge passage. Thank you.

DEPUTY SPEAKER FRANKEL:

Will you remark further? If not, would the staff and guests please come to the well. Would the members please take their seats.

The machine will be opened.

The House of Representatives is now voting by roll. Would all the members please return to the Chamber immediately.

There is a roll call vote in progress in the Hall of the House. Would all the members return to the Chamber immediately.

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Would the Clerk please announce the tally.

CLERK:

Substitute for House Bill 5883, as amended by  
House "A".

Total Number Voting	145
Necessary for Passage	73
Those Voting Yea	137
Those Voting Nay	8
Those Absent and Not Voting	6

DEPUTY SPEAKER FRANKEL:

The bill as amended passes.

CLERK:

Calendar 456, Substitute for Senate Bill No. 589.

AN ACT CONCERNING CERTIFICATION OF OPERATORS OF BOATS.

As amended by Senate Amendment Schedules "A", "B" and  
"C". Favorable Report of the Committee on Environment.

REP. GIBSON: (40th)

Mr. Speaker.

DEPUTY SPEAKER FRANKEL:

Rep. Betsey Gibson.

REP. GIBSON: (40th)

Yes, Mr. Speaker. I move acceptance of the Joint  
Committee's Favorable Report in concurrence with the Senate.

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THE CLERK:

The Clerk at this time would like to call your attention to page 3 of the Calendar, page 3, Calendar 666, File 395, 812, Substitute for House Bill 5883, AN ACT CONCERNING WATER DIVERSION, as amended by House Amendment Schedule A, with a Favorable Report of the Committee on Judiciary.

THE CHAIR:

Senator Skowronski.

SENATOR SKOWRONSKI:

Thank you Mr. President. Mr. President, I move acceptance of the Joint Committee's Favorable Report and passage of the Bill, as amended by the House.

THE CHAIR: (The President Pro Tempore in the Chair.)

Do you move it passed as amended?

SENATOR SKOWRONSKI:

Yes, Mr. President, I do.

THE CHAIR:

Will you remark?

SENATOR SKOWRONSKI:

Yes Mr. President. Mr. President, this is one of the major pieces of legislation of the Environment Committee

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this session and indeed, a major piece of legislation for the State of Connecticut.

THE CHAIR:

I think I heard this speech last week.

SENATOR SKOWRONSKI:

Thank you Mr. President, and you'll hear an even more felicitous comment when I tell you it's the last Environment Committee Bill of the session, Mr. President. Mr. President, what this Bill would do would be to repeal current diversion statutes which really are not adequate and create a much more comprehensive water diversion statutory framework in the State of Connecticut.

Basically what this Bill would provide is that any new water diversion would have to receive a permit from the Commissioner of DEP, and the DEP would grant or deny permits after review of a detailed application and he would have to consider a number of specified standards and criteria in granting or denying a permit. It also-- the Bill also provides for procedural guarantees such as notice hearing and a right to an appeal. Mr. President, the Bill also provides certain exemptions from the Bill

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which are set forth in the Bill and it also provides, Mr. President, that in the case of an emergency, a water emergency, declared by the Governor, that no permit would be required for a diversion for a specified period of time.

What House A does, Mr. President, is make certain technical changes in the Bill and one substantive change. The substantive change is that any person or municipality that is maintaining a diversion as of the effective date of this Bill, shall register on or before July 1st, 1983 with the Commissioner on a form prescribed by the Commissioner, containing information on the location, capacity, frequency and rate of withdrawal or discharge of any such diversion.

Mr. President, this is a Bill that's been worked on very carefully by the Committee. We've obtained the input and considered the input of environmental sectors, water companies, the MDC and all affected parties and I think that we've reached a fair and reasonable compromise and I urge passage of the Bill. Thank you.

THE CHAIR:

Senator Curry.

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SENATOR CURRY:

Thank you Mr. President. I rise to speak in favor of the Bill. I think that it creates a rational system for allocating and dispensing a critical necessity of life. I think that it's a long overdue step for the State and I think it's part of a whole movement right now in the State, a movement toward greater awareness, not only toward our environment in general, but toward water in particular.

What the Bill accomplishes as Senator Skowronski has delineated, is to devise a State review for each one of these decisions to divert water into a drinking supply system. It provides expertise by going to the Department of Environmental Protection. It ensures that not only will there be review but it will be reviewed by people who understand the issue, to bring an adequate background. At the same time it guarantees State review and it also guarantees local input where in fact, if an environmental impact on a community, it ensures that community that before a decision is made which might adversely impact its interest, that it will have a chance to make its own case to bring its problems and reservations to the decision

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maker and at the same time also I think, be informed for its part as to what the likely impact will be and I think it creates in a sense, a dialogue in which all affected parties are given a chance to learn from one another, to mold a policy which conciliates the diverse interests and which protects the larger public interest in and out of the immediately affected areas.

What we have here is an attempt to allocate not just an important environmental resource, but a critically important economic asset, particular in this region. There are those who believe that in the Northeast United States particularly, the supply of water that we have is going to be a tremendously critical asset as we attempt to continue to attract industry and to develop. It's important as those decisions are made, that they are not made (inaudible); they're not made in isolation from a larger consideration of public health needs and the environmental needs and of the economic needs of an entire region.

I think all of us know that a great deal of the impetus for this legislation arose from the public controversy surrounding the plans for the Farmington River last

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year and I think it's equally important that all of us understand that it's not just a Bill for the Farmington River. It's truly a statewide Bill. It's looking at a statewide, indeed a regionwide, national problem in fact and scope. But looking at this state's stake in all of that, it's setting up for the first time a process that guarantees that all of the diverse interests will be at least examined before action is taken and that every person affected, will have the opportunity for due process and a forum which is accessible and which is appropriate in which to bring their own issues.

I think that in the 1980's, the kind of controversy which we've seen is likely to recur, not only here, but throughout the country. I think that again and again and again, we're going to see difficult situations arise in which an ever scarcer resource is allocated in a much more and increasingly more careful way. I think that conservation of water is going to be an issue that will be like conservation of oil became in the 1970's. I think that public awareness is growing and I think that the demand-supply situation is going to require that. I think this

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State will be in the forefront of states dealing with that, making sure that the policy that is created is truly in the public interest and truly is reflected in all of the long term needs of all of us, not just the short term needs of a few. I think that the Bill we have here represents input, as Senator Skowronski said, from many different sources, the Environment Committee toiled tirelessly and also tired of the issue over the course of it. Senator Leonhardt had a great deal of input and I know that Senator DiBella also had a great deal to say about this.

Everyone worked very hard to conciliate many interests and to produce a document which is acceptable to a consensus, not only of legislators, but of people in the communities in this State. It's been a long hard trail to reach this point. I think it's a magnificent accomplishment of this State Senate. I think we're about to enact this Bill into law and I urge every member of the Circle to support it.

THE CHAIR:

Do you move it to Consent? Senator Leonhardt, do you want to do that?

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SENATOR LEONHARDT:

Just to comment briefly if I may, Mr. President. I'd like to rise and associate myself with the remarks of Senator Curry and Senator Skowronski before him. I think it's extremely significant that the State of Connecticut was able to move from a really quite hard, hotly contested controversy last fall to this legislation, really within a six month period of time, devising a systematic method of conflict resolution for these diversion projects.

I think that's a product of a tremendous amount of work that was done in many quarters, including the Department of Environmental Protection, the Environment Committee as well as individual legislators that have a great interest, the Farmington River Watershed Association, and of course, the input of the MDC. The Bill is a very significant one. I think we all recognize that and that's a product or part of the reason it moves through quickly today and it really fills a gapping hole in terms of guaranteeing that there is a proper environmental oversight of diversion projects in the State and that there will be a proper balancing of environmental concerns with of course, the need for water supply. It's a very important piece of legislation we're

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passing here today, the culmination of many months of effort and it's really a pleasure for me to see this Bill be going through the State Senate.

THE CHAIR:

Any objection to placing the item on Consent?

Hearing none, the matter goes on Consent.

THE CLERK:

Moving right along to page 2 of the Calendar, on an item that was previously passed temporarily, Calendar 645, File 755, Substitute for House Bill 5676, AN ACT CONCERNING REGULATION OF WELL DRILLING, as amended by House Amendment, Schedule A, with a Favorable Report of the Committee on Finance, Revenue and Bonding, and the Clerk has an Amendment.

THE CHAIR:

Who's bringing the Bill out? Senator Mustone, excuse me.

SENATOR MUSTONE:

Yes Mr. President. I move acceptance and passage of the Committee's Joint Favorable Report as amended by House Amendment A and I move for adoption in concurrence with the House.

## SENATE

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page 7, Substitute for Senate Bill 459. And that concludes the second phase of today's Consent Calendar.

THE CHAIR:

Any changes, corrections or omissions? The machine is open. Please record your vote. Has everyone voted? Senator Wilber Smith, Senator Zinsser, Senator Johnson, Senator O'Leary, Senator Curry, Senator Labriola. The machine is closed. Clerk please tally the vote.

The result of the vote:

30	YEA	<u>HB 5676, HB 5883, SB 240, SB 217,</u> <u>HB 5238, SB 370, HB 5127, HB 5548,</u> <u>SB 141, SB 308, SB 459</u>
0	NAY	

The Consent Calendar is adopted. Senator Gunther.

SENATOR GUNTHER:

Mr. President, the record should show that Senator Johnson, Senator Labriola and Senator Zinsser are out on Legislative business, servicing their constituency.

THE CHAIR:

The record will so note. Senator Schneller.

SENATOR SCHNELLER:

Yes Mr. President. I would like the record to show that Senator Wilber Smith and Senator O'Leary were absent due to legislative commitments.

JOINT  
STANDING  
COMMITTEE  
HEARINGS

ENVIRONMENT  
PART 4  
780-1061

1982

DEP. COMM. ANDERSON: (continued)  
Deputy Commissioner of the Department of Environmental Protection. I appear here this evening on behalf of the Department to strongly supply Committee Bill No. 5883, and respectfully urge the Committee to give this bill essentially as it stands before you, a joint favorable.

As it is our highest priority in the Department, this bill was drafted as a combined effort by the Department of Environmental Protection and the Office of the Attorney General in response to a request for many of the members of the General Assembly.

It must be emphasized at the outset that this bill is not now nor ever was intended to be a vehicle to attack any one proposed diversion, any one water company, or any particular geographic area of the state. Rather, it is designed to fill a long standing void and critical need of this state. Recognized by the Governor and the General Assembly as early as 1930, to put in place and thereafter implement a statewide comprehensive equitable policy which will provide for the proper planning, management, allocation and use of the water resources of the State of Connecticut in decades to come.

Of equal importance, this newly stated policy of the General Assembly will insure that this state has and implements a consistent long range policy with regard to interstate and intrastate diversions. We cannot remain in the position of opposing the diversion policies of other states, while hypocritically leaving our own house in confused disarray.

We acknowledge with appreciation the opportunity we have had to discuss this bill with the Committee. Because of those opportunities and because this is a hearing for the public, we will refrain from a lengthy presentation at this time. You will, however, hear this evening from a number of persons and organizations, some of whom will offer wide ranging amendments to this bill.

We have seen and reviewed some of these and have heard countless other positions and we respectfully urge this committee not to be swayed by arguments designed to protect certain persons or special interests. The only group we represent are the people of the State of Connecticut. It is their interest and well being and those of their children which

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DEP. COMM. ANDERSON: (continued)  
are the only special interests we seek to serve and protect. A few moments ago I alluded to an effort made by the State Water Commission in 1930 to have passed by the General Assembly a comprehensive bill which was remarkably similar in scope, concept and wording to the bill you have before you.

For various reasons, that proposed bill did not become law and we are not the poorer for it. Last year, and in other recent years, we have witnessed serious water supply problems which have threatened the health and welfare of countless communities and citizens of our state, and on each occasion it was the state to which those citizens and communities turned for help.

Experience has taught us that we need greater tools to prevent these potential nightmares and to provide for future well-being of our state. This bill is that tool. We must not repeat the omission of 1930. This committee and the General Assembly in 1982 have before them an opportunity to fill the void of the past and protect its citizens in the future by the passage of Bill 5883.

Together, we owe the people of the State of Connecticut, no less. Thank you very much. I have with me this evening Assistant Attorney General James Grady and Robert Moore, Director of Water Compliance at the Department of Environmental Protection and we are at this time ready to answer any questions that you may have. And I would like to mention that 2 questions we have received by way of phone calls and letters, are what about a fire department that would have to divert water from a stream or surface water to put out a fire?

Well, we are offering as the fourth exemption all paid and volunteer firefighters, that that would be exempt. We are also working with the Commissioner of Agriculture, on some agricultural wording that would be included, either in the bill or in the regulatory process, but from there, I'd welcome any questions that you might have.

REP. BERTINUSON: Thank you. Are there questions? Thank you very much. I'm sure the committee will consult with the department if questions develop, as we work on the bill.

DEP. COMM. ANDERSON: Thank you.

REP. BERTINUSON: The next speaker is Sen. Clifton Leonhardt. No, the regular minority leader's. And next will be Robertson on the majority side.

SEN. LEONHARDT: Thank you Rep. Bertinuson, Sen. Skowronski, I'd like to testify on Bill No. 5883. I'm going to make remarks to 2 categories.

And first of all, I'd like to address 2 technical areas in the bill. I think there are, and then speak more broadly in the second area of discussion.

There are 2 changes of critical importance I believe that should be made Section 9 of the Act. Section 9 a allows the commissioner to grant an application upon such terms, limitations and conditions if he deems necessary, to fill fulfill the purposes of the act. I feel that a limitation setting minimum flow requirements should be specifically set forth as one of the conditions, pursuant to which diversion application can be granted.

Also, under Section 9b7, language should in my judgment, be added specifying that the commissioner should consider whether the water sought is available from other alternatives including reasonable conservation measures. I think a reference to reasonable conservation measures should be in the portion of the bill setting forward the considerations that the commissioner would have in mind at the time of, at the time of granting an application.

I think everyone in the room is very well aware that this water diversion bill arose out of the controversy that took place last fall, concerning the MDC proposal to divert the Farmington River. What I would like to say more generally and broadly to members of the committee, is that the interests of both the environmentalists as well as the interests on behalf of economic development, manufacturing, and other water consumers, really demand this bill this year.

I don't believe that the MDC can win a referendum, at least until the statute is passed, and it may not be able to win one until there was actual DEP approval of the project. If the MDC tried to pass the referendum for the full project,

SEN. LEONHARDT: (continued)  
without this statute or something very close to this statute in place, it would be in serious disregard of the referendum vote last fall. So that even if the MDC does in just for study money in a 1982 referendum, if this statute is not passed until 1983, the study for the DEP permit would be very seriously slowed down.

I believe the State of Connecticut has a great interest in having a proper process with adequate DEP review and safeguards move forward with reference to this project. I hope very much that the General Assembly will not delay in passing this statute this year. I personally believe having reviewed the statute in considerable detail, that there is nothing so complicated in this matter that cannot be solved by the relevant parties, operating in good faith, sitting down for not more than 2 meetings. I think the state's interest require that we meet the challenge of passing 5883 this year and I hope that we will all move forward in that regard. Thank you.

REP. BERTINUSON: Thank you very much, Senator. Are there questions? For the record, your suggestion on including conservation as one of the alternatives is one of several amendments that the committee has generally agreed on but it was too late for the drafting, that definitely would be part of a bill that we would propose.

SEN. LEONHARDT: Thank you Rep. Bertinuson. As usual and as I would expect, the Environmental Committee is moving in the proper direction.

REP. BERTINUSON: Are there any questions? Thank you very much. The next speaker is Sen. Philip Robertson, to be followed by Sen. Bill Curry.

SEN. ROBERTSON: Thank you, Madam Chairman. Mr. Chairman, members of the Environment Committee. I would first like to thank you very much for raising Senate Bill 365, and I would like to address it. The first 3 years I served in this house, certainly not sitting at this seat, probably the most heavily lobbied, emotionally lobbied bill was the bottle bill. And as we all know that that bill eventually passed, and I think the evaluation of the bottle bill is that it was a good bill, and many of the questions, many of the fears

SEN. ROBERTSON: (continued)  
that a number of cans have been store in this building in different offices. That's a capital, a large capital. Just think of what's going on in your food store. Understand your food stores, it maintains health controls, have to rid the store of those roaches. Go down to the local food store and ask him for a list of insecticides used. The only way we can solve this problem, we can create equity, is to increase the handling fee.

Not only by increasing the handling fee will be create equity, but we would probably do what I would prefer, and that's make a redemption center economically viable, at 1¢ per can, a redemption center is not economically feasible at this point.

I ask the committee to consider the facts, consider the issue, consider equity, the food stores have not created this problem. We, the General Assembly have created this problem and therefore, only we, the General Assembly can correct this problem. Thank you very much, Madam Chairman.

REP. BERTINUSON: Thank you, Senator. Are there questions? Thank you very much. The next speaker is Sen. Bill Curry. We have a watch that somebody seems to have lost. If anybody wants to identify it, they can come up and claim it.

SEN. CURRY: Thank you Rep. Bertinuson. I'd like to speak just very briefly on House Bill 5883, the Water Diversion Bill. To say just that I believe this is a very important piece of legislation as I know the committee feels, this water in the northeast is perhaps our primary economic asset as well as being an extraordinarily important environmental and human resource.

The conservation of water, I think, will be into the 1980s what the issues of energy conservation were to the 70s. The introduction of a novel kind of problem involving the fundamental necessity of life about which we've done not enough planning as a society, to which we haven't given enough thought, and on which we must move very, very quickly in order to preserve for ourselves and for generations to succeed us, something without which they would, life itself would be impossible.

The legislation that we have here I would like to heartily

SEN. CURRY: (continued)  
endorse. I would like to commend the Department of Environmental Protection, Mr. Grady and John and all the people that have worked very hard on this. I think, as all of you know, I've been involved in this process for some time. I think this bill represents a genuine effort to conciliate the very diverse interests who have been involved in this question. I think it reflects a great deal of hard work, a tremendous infusion of expertise. I think that in its present form as the committee, as it exists now after committee discussion, most of, even the minor kinks in the bill really have been worked out, and I've urged the committee to reject any serious attempts to amend this bill in a fashion which would weaken it, and I would also urge the committee, and particularly in view of all the hard work the committee members themselves have invested in bringing this legislation to its present form, not to consider delaying the passage of this legislation to another session.

As many of those whose business it is to provide water have indicated it's important that they have predictability, it's important that a concrete state policy be laid out, and that those people can use to plan. I think the longer we delay in putting a piece of legislation on the books, it lays out what the ground rules are going to be for diverting water, the more irrational the process itself is going to be.

So I commend the committee for its work. I think it's a very important piece of legislation. I hope that it's present form, it will see the light of day on the floor this year. I don't think there's a more important issue before this (inaudible) and how we allocate these resources, and I think that if nothing else is done, this would be a great accomplishment.

Now one other point is that if you are going to do anything else, the hazardous waste generator surcharge bill would also be a good addition. I just want to speak very quickly to say that I think it's important. It's, all of us read in the newspapers every day, the recurring issue before many, many communities as to whether or not to allow within their borders the hazardous waste disposal sites. Whether or not to allow within their borders, hazardous waste generators, chemical companies and so forth. I don't think, unless we've provided a regulatory framework which can be responsive to the

- SEN. CURRY: (continued)  
most serious problems that might arise, that we can really, reasonably and intelligently tell any community that it should go forward, and I think that we're going to have the same kinds of resistance and anxiety and fear until we've put in place a state program that can respond to the kinds of situations that are theorizing, where in fact generators and so forth are located, and in order to do that, the kind of spill fund that this would make possible, needs to be in place, so I think it's important that if the state's going to move forward in this area that we have that as well. And with that, I conclude.
- REP. BERTINUSON: Thank you very much. Are there questions?  
Sen. Dibella.
- SEN. DIBELLA: Sen. Dibella from Hartford. Senator, in the overall comprehensive diversion question, am I hearing you correctly that you're talking about clean drinking water as being the highest priority for a diversion project?
- SEN. CURRY: Clean drinking water being the highest priority for a diversion project. Yes, I think that, I can't imagine a higher priority. I can't imagine a more sensual, more fundamental necessity of life, and I think if we've had any differences at all in this issue, it is as to what kinds of apparatuses are to be put in place to decide how those resources are allocated, but the fundamental priorities I think, are in fact, the same.
- SEN. DIBELLA: Thank you.
- REP. BERTINUSON: Are there further questions? Thank you, Senator. Next speaker is Rep. Mae Schmidle to be followed by Rep. Jim Fleming.
- REP. SCHMIDLE: Thank you very much. For the record, I'm Mae Schmidle from Newtown, and the 106th Assembly District. And I'm here this evening to speak in favor of Bill No. 368, and ask that you strongly support this. I think this is a very important component to the bottle bill and we should seriously consider it at this time.

Connecticut allows plastic holders, or loop holders, what have you, for beverage containers which are not degradable,

REP. SCHMIDLE: (continued)  
and they, in turn then, litter the highways and become injurious to animals. Animals become trapped in these loop containers as they're left around the countryside. We've all kinds of pictures of raccoons and baby deer and so on, who get their feet stuck in it and then can't move and starve because they can't eat. All kinds of small quadropeds. It's especially harmful to birds, to ducks, to geese, to gulls, who choke and starve. They get these hoops hung around their necks and they can't eat and they starve, and they can't drink water, and it really is not a very pleasant condition if you live in areas where these animals die and litter the roads as well the plastics.

The plastic that we now use, will forever remain in its present condition. However, there are other products on the market that have been used extensively in other states. For example, there is a photo degradable plastic, which when exposed to heat and sunlight will become brittle and crumble away. There is a chemically degradable plastic which has a time release in it, and in time, it also will crumble away and disappear, and there are biodegradable plastics.

As I said before, in many states, this is part of the bottle bill. There are 4 states who now incorporate this in their bottle bill, including Maine, Vermont, Oregon and California. Massachusetts is once again considering this as part of their bottle bill and so is Rhode Island, so we stand a very good chance of being surrounded with this kind of legislation.

When California implemented theirs, they put in a 12 month delay, so that the solid waste board could make a legal findings on degradable plastics and find out if they really wanted to use them in California, and were they commercially available. They discovered, yes, they were. Then they allowed another 6 month wait, because the United States Brewers Association wanted to conduct their own private tests to find out, if in fact, these degradable plastics were everything that they were supposed to be and the U. S. Brewers Association discovered that there was no problem with the quality of the product, and ultimately Clifornia went ahead.

I contacted all the 4 states who currently have this, and their advice to me was that this kind of a thing is

REP. SCHMIDLE: (continued)  
and people and parents complained as well as, about the kind of beverage holders that we have, that completely expose the top of the cans, and then the kids pick up these cans and then they drink out of them, and you don't even know what kind of filth is all over the can, so they had a lot of complaints, but I'm only addressing the loop containers at this time.

Vermont and Maine very, very strongly urge Connecticut to support this kind of legislation. They would like to see New England be first complete region in the nation that banned the nondegradable plastic containers and they strongly encourage us to do that. To clean up our highways and to protect our wildlife. Thank you very much.

REP. BERTINUSON: Thank you, are there questions? Thank you very much. Next speaker is Rep. Jim Fleming, to be followed by Rep. Bob Sorensen.

REP. FLEMING: Madam Chairman, Mr. Chairman, members of the committee. My name is James Fleming. I represent the 16th Assembly District in Connecticut. This is the second time I've testified before committee here today and it's the second time I've sat on the majority side, and I'm getting used to it and it feels very good. I hope we'll be over here next year. But all that aside, I would like to thank you for this opportunity to speak before you and I promise to be very brief. I know you have a long list of speakers before you tonight.

I'm here as several others before me, and several others after me will be, to speak in favor of HB 5883, An Act Concerning Water Diversions. I feel it is one of the most important pieces of legislation to come before the General Assembly this year. It is an act which I wholeheartedly agree with and which I urge you to support and act favorably on.

I would also like to congratulate the Department of Environmental Protection and Commissioner Pac on his very hard work on this piece of legislation.

This bill provides, I think, the standards and procedures by which the State of Connecticut will insure adequate water

REP. FLEMING: (continued)  
resources for future generations.

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The bill seeks, I think, once again, to balance the demands for water from the many diverse segments from both the public and private sector and between those interests who wish to utilize our water resources for drinking or recreation, affluent disposal and as a necessary part of our ecology.

As a representative from the Farmington River Valley, I have parochial interest in this bill, and that is to protect the economic and ecological viability of the towns which I represent in the Valley. This bill provides for early public input into a decision to divert the waters of our state, and it empowers the commissioner to insure that the long range interests of the State of Connecticut concerning adequate water resources will be preserved.

As a representative, I should urge that this bill be altered to more closely address specific needs which I see for my parochial interests. However, I don't wish to leave this committee with the impression that I do not totally support this bill as it is. I will, however, send a letter to the committee expressing some specific improvements as I see them to this bill which will include insurances of an early warning system to municipalities and to the public when a diversion is being contemplated, and secondly the inclusion of a provision which will allow the chief elected officials of affected municipalities to officially request and receive an additional reply from the commissioner for a periodic review and investigation of a permit that would be issued pursuant to this act.

But once again, in closing, I urge you to support this bill as is. It's an excellent bill. I think it does a good job to balance the competing interest for the waters in our state, and I urge you very strongly to support it and I would be very happy to answer any questions.

REP. BERTINUSON: Thank you, Rep. Fleming. Are there questions? Thank you very much. Next speaker is Rep. Bob Sorensen, to be followed by Stephen Hitchcock.

REP. SORENSEN: Rep. Bertinuson, Sen. Skowronski, members of the Environment Committee. For the record, my name is

REP. MUSHINSKY: (continued)  
types of people did you request?

MR. HITCHCOCK: For general fund, on the general fund?

REP. MUSHINSKY: Right.

MR. HITCHCOCK: The word was, there was to be no general fund money for staff so I didn't request any.

REP. MUSHINSKY: Okay, I'll reword it a different way. How many people did you request through whatever mechanism, and what types of people.

MR. HITCHCOCK: Okay. The people we're lacking with empty positions are engineers and field inspectors.

REP. MUSHINSKY: And how many did you ask for?

MR. HITCHCOCK: Let's see, we have, I think we need, I think we originally had 2 engineers, one of those was removed, so now we only have in for 1, not removed in my behest, but at personnel's and I'm uncertain how many field inspectors we have. I can get that for you.

REP. MUSHINSKY: Okay, then on your comment on the bill specifying that 15% of the money goes to drinking water and 25% for emergency and spills cleanup and you couldn't understand where the rest of it was. The rest of it was the part of the bill that was deleted when the bill was rewritten this year and I was out sick. So, there will be an attempt to add those DEP staff positions back into the bill, which would explain where that other 60% of the money goes.

MR. HITCHCOCK: Fine. I strongly favor that.

REP. BERTINUSON: Any further questions? Thank you, Steve. The last speaker on the agency list is Ray Jarema.

MR. RAY JAREMA: Yes, I'd like to comment on Bill No. 5883, An Act Concerning Water Diversion. The Department of Health Services sees the diversion act as being an interesting and admirable proposal to the difficult and complex subject. However, we have some technical recommendations which we would like to present to the Environment Committee and to the DEP next week. I am not prepared to make those technical

MR. JAREMA: (continued)  
comments at this time.

REP. BERTINUSON: Thank you very much. We now are ready to begin the list of public speakers. I would tell you that we have some 50 to 55 people signed up to speak, and I hope that you will judge the length of your testimony accordingly. The first speaker is Astrid Hanzalek. It's a pleasure to welcome her back to this chamber. She will be followed by Randy York.

MS. ASTRID HANZALEK: Thank you, Rep. Bertinuson. Members of the committee. I didn't used to sit in this chair, I sat in one over there and since I left here, I've had more time to do a lot of things that I've always been interested in. I've been involved in many Connecticut River issues such that the other day when I got a phone call from a friend, the friend addressed me as Old Ma River. And I suppose one has been called worse things than that, but we'll let it go.

I've also been serving as secretary to the Connecticut River Committee and have serve as co-chair on the Citizens Action, the Citizens Advisory Group, the Connecticut River Basin Program of the New England River Basins Commission. And though the NERBC was unfunded as of October 1, the Citizens Advisory Group has been continuing and has been meeting with the Connecticut River Valley Flood Control Commission among others.

The water allocation issues, we feel are as important if not more so than the issues of water quality and water quantity. Boston's interst in diverting the Connecticut River is no secret. This legislature passed 2 resolutions opposing diversion on a number of different occasions, and we opposed that diversion until we know how much water the river can donate and how much our people will need.

Representatives, we think that that's a logical position to take. Representatives of the attorney general's office have been frustrated in dealing with their counterparts in Massachusetts. Why? Because neither they nor we can prove that one diversion is bad, or that 2 might be disastrous, or indeed that either one of them or both are not at all critical.

MS. HANZALEK: (continued)

A water allocations policy which requires an environmental impact statement will be helpful. It would give us, in Connecticut, the answers that we would need so we could say yes, or no, intelligently, and be upheld by the court, which, of course, is the bottom line.

But we cannot use 2 standards. The policy we apply to other states, must be the same as the policy we are willing to apply to our own citizens. Diversion permits need not be required of all. Sure there is a cumulative effect, but let's try to exempt small municipal wells, fire fighters activities and some of those things. Whatever that means, the threshold would be 50,000 gallons in a 24-hour period, or 100,000 is pretty immaterial.

Let's also understand that when we talk about conservation, we shouldn't be looking at it in this kind of legislation so narrowly that we're sort of threatening showerheads and bricks in water closet tanks. What we're talking about is allocation of probably the most important natural resource we have, namely, water.

It has been suggested by some who would like to amend this bill, that we might add the word encumbrance, wherever we use the word diversion. That, my friends would include every fish hatchery. It would probably kill such a policy as this with kindness, and it would among other things, suggest the ridiculous posture of the DEP applying to itself for a permit.

Having a sensible allocation policy ought to be of assistance to developers and water companies, and not a hinderance to them, among other things, it will keep them out of court.

There's been some suggest that we remove tidal waters, marshes, harbors and estuaries from our definitions. I would suggest to the committee that we not do that, because if you look at this from a multi-state perspective, if Massachusetts diverts too much water, our fishing and recreation industry could suffer immeasurable damage. Our clams will need hiking boots. Connecticut, after all, is the great tidal river, and the town of Middletown derives its water supply from underground wells that are charged by river water. If the level of the Connecticut River becomes

MS. HANZALEK: (continued)  
too low, the (inaudible) water from the sound will creep up further than the town of Middletown and that town's water supply will be ruined.

As you can see, I'm trying to address this bill from a multi-state, from a regional perspective, rather than from a very local parochial perspective, because I think the issue is broader than just the Hartford area.

There are 2 very important factors that should be in this bill. I think that whoever applies for a permit, first of all must be required to discuss alternatives to diversion. That is something that we would require of Boston MDC if they were to want to divert water from the Connecticut River. We would want to find out what alternatives they have investigated. We should also require that of whoever within the State of Connecticut wants to divert.

The second very important consideration is that in considering various applications, the commissioner should not have his hands tied because the applicant for diversion may already have acquired land or whatever for the purpose of a proposed diversion.

These 2 items are particularly critical, members of the committee when you think of the eerie parallels between the MDC Boston wanting to divert water from the Connecticut River, and for example MDC Hartford wishing to divert river water from the Farmington, from the west banks of Farmington. In both instances, the 2 respective MDCs thought this out and planned this out many, many years ago. In both instances, they previously diverted pieces of other rivers. The Whear and the Still River on the part of the MDC Boston and one of the branches of the Farmington river on the point of view of MDC Hartford. In both instances, they flooded a valley, inundated several towns in order to build a reservoir. The reservoir in Massachusetts of course is the Quabin, it's the Barkhampstead Reservoir here, north of Hartford. In both instances, they planned many years ago to build a tunnel from a new diversion, in this instance, the west branch of the Farmington in the Massachusetts instance, the Connecticut River, build a tunnel from that other diversion to the reservoir. In both instances it's to supply their service delivery area with more water, whether it be the MDC Hartford area, or the MDC Boston area.

MS. HANZALEK: (continued)

Now maybe in both instances the need is real. We ought to recognize that. But we also ought to protect our future. The very, I think you will find that a number of people will offer objections that will have to do local interests and they may say that the bill is premature, that we need more time and a variety of other delaying tactics of that kind. I think it's high time, that we, the citizens of Connecticut, protect ourselves from the water requirements that other people outside of the State of Connecticut may have.

It is our responsibility, and yours as legislators, to make the best possible use of this resource. We need an allocation policy that's fair and flexible. We need a diversion policy that protects our citizens and Connecticut's economy from those interests that lie beyond the borders and that same policy must apply to our own people. Thank you.

REP. BERTINUSON: Thank you, Astrid. I would for the record note that a couple of the areas that you touched on are in here. We do, would require alternatives to be discussed and there are a few, I think I mentioned earlier, the committee had agreed on a few amendments that are not shown in the proposal and one them would say that one of those alternatives must be conservation and to be considered as an alternative.

MS. HANZALEK: Thank you. I understand that. I also received a copy of another alternate that had a few other suggestions in it, some of which are of no great moment, but some of which did cause some concern and I thought that part of the record, or the record should reflect at least my concern for some of those other proposed alternates.

REP. BERTINUSON: At this time, I would point a couple of the others so that people would, as they testify, would be aware, that there are some changes that the committee had pretty generally agreed on, but it was after the bill had been drafted, and one of them was that listing as conservation as one, as, to be included in the alternative sources. I mean, exemptions, we had said that a well or wells joined together whose withdrawal rate was less than 25 gallons per minute, we planned to change that to say, to make that limit 50,000 gallons of water during a 24 hour period. In other words, any well, or wells that would deliver less than that amount would automatically be exempted from the provisions. There are also some

REP. BERTINUSON: (continued)  
other changes dealing with definitions, basin and inter-basin diversion. Are there questions? Thank you very much. The next speaker is Randy York, to be followed by Clifford Noll.

MS. RANDY YORK: My name is Randy York. I'm a Valley resident and before I start, I'd like to bring to you a little piece of nostalgia. It's something that we had with us last year, a little bit of our poison punch that we --

REP. BERTINUSON: Randy, would you try to speak into because it won't be in the record if you don't speak into the microphone.

MS. YORK: It's been fermenting nicely all year long, all the chemicals have been interacting and it's still sitting here wondering what we're going to do about it, so I'd like to bring it up and give you another sample in case you forgot about it.

Last year I did invite people to stay after for refreshments but nobody took me up on it. Members of the committee, just to be sure there's enough to go around, I'd like to add a second bottle.

Okay, well, I guess you can tell as I am sitting here, I am a little bit disappointed that once again several people, well many, many people from all over the state have had to gather in front of the environment committee and demonstrate to you the need for the establishment of a hazardous waste management fund.

If we seriously intend on solving these problems, we've got to do something about it. Last year, some of you told us that our ideas were good, but that the establishment of a siting council was of higher priority. We said that we thought that was a great idea, too, it was definitely needed but that it didn't address the problems resulting from the existing hazardous waste disposal sites which have already contaminated or are threatening to contaminate ground water supplies all across the state. Last year some of you also argued that you could see no need for this bill, because after all, the federal superfund was going to come in and clean up all of our hazardous waste problems. We told you then that we thought it was extremely doubtful that this would

MR. MC KINNON: (continued)

LEAP supports House Bill 5810, but the proposed legislation cannot achieve its intended purpose unless there is a provision for increased staff in the Department of Environmental Protection. At present staffing levels the job cannot be done. I support the inclusion of \$150,000 from the fund to hire the necessary people to make this legislation work.

In conclusion, LEAP urges you to add funding for necessary staff and to approve House Bill 5810. Thank you. (applause)

REP. BERTINUSON: Thank you very much. The next speaker is Chuck Corrado.

MR. GORDON BECKWITH: My name is Gordon Beckwith of New London and I would like to speak in place of Mr. Corrado who had to leave tonight.

REP. BERTINUSON: Let me just call the next speaker so they can be ready, Ronald Lak, I believe. All right, go ahead, sir.

MR. BECKWITH: My name is Gordon Beckwith. I reside at 168 Norwood Avenue, New London, Connecticut. I'm a water superintendent for the City of New London and am a relatively short timer, having been employed there for the past 48 years.

The City of New London since 1872 has had a water supply system and we've always provided our consumers with an adequate supply of water. Through the dry years and through the wet years, we have a track record of 110 years of proven service, without the so-called benefits of House Bill 5883, which we oppose.

We in New London can live for another 100 years without it as presently written. It has been stated by proponents that their concern is for the availability of domestic water. Yet, if we look on Page 6 of the bill, at the bottom of the page, and I quote, the commissioner shall 1) consider the affect on fish and wild life. Who is kidding who? Needless to say, I am opposed to the passage of Bill 5883 as presently written, both as a water superintendent and as a private citizen.

The bill needs to be rewritten by people who have been doing the planning for the water works industry in Connecticut for

MR. BECKWITH: (continued)

years plus the environmentalists, and certainly not by the regulatory agent who will regulate the industry. Thank you for your concern.

REP. BERTINUSON: Thank you, sir. Are there questions? I hope your job will become permanent pretty soon, there  
Belt 9 sir. The next speaker is Ronald Lak, to be followed by Barbara Surwilo.

MR. RONALD LAK: I'm here tonight to address Bill 5810.

My name is Ron Lak and I hold the position of senior environmental engineer at the Naugatuck facility of Uniroyal Chemical. Through the Connecticut Industrial Waste Management and Recovery Task Force established in August 1978, representatives of Uniroyal have participated intensely in the development of Connecticut's hazardous waste management regulations and hazardous waste facility siting regulations. I am continuing in Uniroyal's commitment to participate in the development of a fair and practical approach to the solution of the hazardous waste problem in Connecticut by presenting the following basic principles I feel Bill 5810 should address.

First and foremost, I feel the 10% matching fund requirement is essential and that bill 5810 should focus on this primary purpose -- to raise the 10% share required by the federal superfund of 1980. Establishment of this fund will allow the State of Connecticut to obtain 90% of the monies from the federal government, when these monies will be used to prevent or minimize the release of a hazardous substance into the environment or to clean up or remove released hazardous substances from the environment.

Focusing in again on the primary purpose of this bill, to raise the 10% Bill 5810 should include a sunset provision of December 12, 1985 to match the federal act's sunset date. This sunset clause should allow the State of Connecticut to review the progress made in 3 years and provides three available courses of action, depending on what happens on the federal government level.

No. 1, renew the bill as is.

No. 2, revise to incorporate knowledge gained during the 3 years,

MR. LAK: (continued)  
operations are exempt under RCRA.

SEN. SKOWRONSKI: Exempt because they produce less than 1,000.

MR. LAK: 1,000 kilograms.

SEN. SKOWRONSKI: 1,000 kilograms of waste. Okay, thank you.

REP. BERTINUSON: Are there any other questions? Thank you.  
Did you leave us, will you leave us a copy of your statement  
in the basket. The next speaker is Barbara Surwilo, to  
be followed by Milton Hupprich.

MS. BARBARA SURWILO: My name is Barbara Surwilo. I'm from  
Rocky Hill and tonight I am testifying as Capital Region  
Council of Government, Regional Planning Commissioner from  
Rocky Hill. As a town planner and zoner from Rocky Hill,  
as a member of the initial Connecticut River Assembly Group  
that has legislation pending before this committee.

Water is going to be effectively, in my mind, is going to  
effectively decide the development pattern in Connecticut  
during the next 25 years, and for this reason, I want to  
congratulate the Environment Committee for raising what  
I consider to be an exceptionally fine piece of legislation  
in Bill 5883.

It shows a lot of thought. It shows careful consideration  
of many different interest and I strongly support the bill  
in the way it is written now.

I would like to go over 5 points that I want you to watch  
for as it begins to wend its way through the legislative  
process. One is, under the definition of water, could you  
be especially careful not to eliminate, not to eliminate,  
tidal waters, harbors, estuaries or marshes from the definition  
of whater when you're talking about diversion.

Under the hearing process itself, I want you to pay special  
attention to the fact that when you have anything that  
involves an environmental impact statement such as interbasin  
diversion that now to set a definite hearing time such as  
180 days from the beginning of a hearing to the close. Not  
to make it a mandatory time limit. Otherwise, decisions of

MS. SURWILO: (continued)

the commissioner would have to make on a request for decisions, on diversion, could be made with inadequate data or no data at all because technical data takes some time to produce as we're all well aware. I would ask you not to place a time limit on that.

On the hearing process also, I would ask you to leave the bill the way it is written and not consider an automatic approval if the commissioner does not decide within his time limit. He should be required to either grant the permit, or deny the permit with reason. It should not be an automatic approval, because then the public doesn't have access as to the reasoning behind the granting of such permit.

Four, permits should be nontransferrable. That is they should not form the basis for a lively commercial activity where landowners could apply for the permit and the whole permit for a number of years and sell the land at a higher price because it has a permit with it. A permit if the, the permit goes with certain sections of land or basins, then it should have to come up for automatic review if the landowner should change.

Fifth, I'm very glad to see that you have required an environmental impact statement for interbasin diversions. I think this is wise and it's actually going to be in the interest of not only the people who would utilize the water from the water shed, but also in the interest of developers. It's in the interest of everyone to have wise planning management allocation and use of water.

Finally, listening to Mr. Hanzalek in the beginning, I would also advise you to avoid the buzzword encumbrance or to not add that word into any, into this legislation, diversion is enough. To put encumbrance in there, I think it will kill the bill myself, because --

REP. BERTINUSON: Or muddy the waters at least.

Belt 10 MS. SURWILO: Okay. Finally, I'm sure that all of the legislators are aware that water makes Connecticut green, and therefore it's a resource it's about time we had some long range planning with regard to diversion.

MR. HUPPRICH: How much do we pay for each individual container?

SEN. SKOWRONSKI: How much does it cost you to handle the?

MR. HUPPRICH: Last year it cost us, we ran close to 8,000 hours and that cost the store roughly \$28,000 to maintain the bottle return area.

SEN. SKOWRONSKI: Is the figure of 2.7¢ per container an accurate figure as far as your concerned?

MR. HUPPRICH: It should be higher than that.

SEN. SKOWRONSKI: You think it's higher than that. What would be your best guess?

MR. HUPPRICH: I'd say over 3¢.

SEN. SKOWRONSKI: And what do you get under the law now?

MR. HUPPRICH: One cent for handling.

SEN. SKOWRONSKI: Okay. Thank you.

MR. HUPPRICH: Thank you.

SEN. SKOWRONSKI: The next speaker is Charles Mokriski from the Connecticut Waterworks Association to be followed by Robert Crook from the Connecticut Sportsmen's Alliance.

MR. CHARLES MOKRISKI: Sen. Skowronski, Members of the committee, my name is Charles Mokriski. I'm an attorney practicing in Hartford and I represent the Connecticut Water Works Association, a statewide association of 20 investor owned and 23 publicly owned water utilities serving over two and a quarter million people in the state.

As purveyors of public drinking water, the members of the association have an obligation to provide sufficient quantities of quality water at reasonable costs to consumers in the state.

We have a number of utility professionals that have prepared to testify today, should they be reached, on the inadvisability of the water diversion bill, 5883. Following my testimony

MR. MOKRISKI: (continued)

you'll hear some of the people from New Haven, Waterbury, New London, Clinton, Bridgeport, various 4 corners of the state about the problems and expense of this bill will entail for their systems, which, when you add up all the figures, we estimate in a conservative fashion would approach \$50 million on the utilities alone to inventory and go through the kinds of studies that checking every single one of these diversions as they are so broadly and vaguely defined in the bill would entail.

This (inaudible) administration of costs that the administration of the act would entail for the state. In the analysis of the voluminous reports and investigations and the hearings that would be entailed by all these applications and studies, presumably these costs to the state would in turn, be imposed upon (belt stuck)

very briefly on the points and then I'll give the remainder of my 5 minutes to Mr. Chasluce. We take serious exception to the inclusion of existing diversions in the bill. I heard it stated in some of the work sessions on the bill that this was, existing diversions had to be covered in this bill, because otherwise there were a number of illegal or improper diversions that could never be stopped or could never be caught.

I think I'd make the point that if there are illegal diversions, that must mean they're contrary to some law already in place and we need not impose another layer of law in order to catch such illegal diversions.

The definition of diversion is so broad that it would catch just an innumerable, incalculable number of water utility operations in the state. We've heard that the Department of Environmental Protection would adopt regulations that would cut back on the number of activities encompassed. It seems to me to be a very risky business for the legislature to entrust such broad discretion to an administrator. We have a rational and restrained administrator today in DEP. He may be followed by a commissioner that would push his power under this law to the limit.

Public water supply is not given the highest priority among criteria for decisions under this act. There was a question

MR. MOKRISKI: (continued)

posed earlier by Sen. Dibella to one of the legislative proponents of this bill as to whether that proponent thought that water quality and quantity was the most important consideration for the DEP under this act. The reply was yes. Apparently, the bill hasn't been read very carefully, because water quantity and quality is placed way down far below fish culture and a number of other environmental concerns in the kind of criteria that are enumerated in the bill.

If the committee would like to address the issue of water resource management in a rational comprehensive and productive manner, we suggest the creation of a task force to study the diversion problem, if it is a problem in a context of an overall study of the state's water utility industry and water resource management.

One vehicle for this study exists in a bill the Committee has already heard, and I understand discussed favorably, 5605, with respect to the, which the association has submitted language for providing for water utility input.

If certain immediate or short term problems exist which appear to the committee to require immediate substantive legislative attention this year, we respectfully suggest that minor amendments in the state's existing diversion statute, Section 25-8a, we have a statute on the books, could meet the needs without erecting a regulatory edifice as grandiose and as expensive as that contemplated by this bill.

Now, I'm merely an attorney. I don't work in the water industry day in and day out and it's one of the reasons I have had a number of professionals who do, engineers, management people. I think Mr. Chasluc's comments will be very helpful to the committee and if I can defer to him at this time, I would.

MR. MARSHALL CHASLUCE: Thank you. My name is Marshall Charluce. I'm vice-president of the Connecticut Waterworks Association. It is the association's position that prior to implementation of legislation that would require permits for diversion, a study should be undertaken which would result in a statewide water supply plan. This study should have the input of water

MR. CHASLUCE: (continued)

supply professionals with priority given to diversions for drinking water supply and should be performed by qualified consultants, or perhaps the Corps of Engineers.

We are concerned that the proposed Act is a classic, but unfortunate example of over reaction to one or two specific problems in isolated areas of the state.

The Act completely ignores the fact that the majority of the water supply industry in Connecticut has provided efficient service to its customers and has engaged in proper planning for future supplies.

We see no need to overburden our customers with the enormous cost of accommodating the many provisions of this act, prior to determining the need for such regulation. We emphasize that this bill is premature. The state should first determine the possibilities of coordinating our existing water supplies, determining where they should be directed, and how transfers can take place before a bill of this magnitude is adopted.

If there are presently a few isolated problems, then these should be dealt with through the existing regulatory agencies until a statewide supply plan can be adopted. We offer the following specific comments on other aspects of the bill:

1. That water supply industry in Connecticut actively supports the concept that water is a precious natural resource and should never be wasted, but drastic conservation beyond the point of convenience is unnecessary.

All references to mandatory conservation should be deleted from the bill. One of Connecticut's greatest assets for promotion of industrial development is its abundant and relatively inexpensive water supply.

The conservation requirements in the bill infer otherwise. Mandatory conservation in Connecticut should only be implemented in emergency situations not as a replacement for developing additional needed sources of supply.

MR. CHASLUCE: (continued)

2. Existing water supply diversions should be exempt from the permit process, or be granted permanent permits.

3. New water supply diversion should be given special consideration and not require the preparation of full scale impact statements, but should be granted permits on the basis of the statewide water supply master plan suggested earlier.

4. Approval of a diversion should not be subject to a twenty-five year renewal requirement but instead should be permanent. We recognize the state's concern and role in proper resource protection planning.

We recommend that a task force composed of representatives of state agencies and water utilities review and evaluate the progress and results of the previously recommended comprehensive water supply study.

In the absence of such a study, a sweeping act of this type concerning water diversions is ill-advised. We must first coordinate the overall water resource data available and then identify the specific problem areas before adopting a solution to a problem that does not, in fact, exist.

In conclusion, the Association feels that the present regulations for diversions can be made to cover existing problem situations, and that the completion of the state's water plan should be advanced as rapidly as possible to put the allocation of Connecticut's water on as reasonable, conflict avoiding and economical basis as possible.

Thank you very much.

SEN. SKOWRONSKI: Thank you very much.

MR. CHASLUCE: Thank you, Senator, Representatives. If there

MR. CHASLUCE: (continued)  
are any questions, I'd certainly be happy to respond.

SEN. SKOWRONSKI: Just one very quick one.

Chuck, I believe it's your position that there are statutes on the books now that would give the state or the Department of Environmental Protection the authority to control a future diversion that it considered detrimental to the state?

MR. CHASLUCE: Section 25-8a is such a statute, which empowers that the Commissioner of Environmental Protection review diversion requests.

It's a statute under which most of the water utilities of the state come. If there are some omissions or exceptions, they could be addressed by a relatively narrow amendment, it seems to me.

It's a much more prudent way to proceed than by erecting this kind of an edifice on a (inaudible).

SEN. SKOWRONSKI: I'm glad you at least refer to it as an edifice. There are other possible metaphors that you might have used.

MR. CHASLUCE: We developed those privately, Senator. I can share them with you after the hearing.

SEN. SKOWRONSKI: Okay. Your restraint in describing the bill as inadvisable was also duly noted. The next speaker is Robert Crook, to be followed by Melvin Schneidermeyer, from the UTC, United Technologies Corporation.

MR. ROBERT CROOK: Mr. Chairman, members of the Committee, my name is Robert Crook. I'm Director of Legislative Affairs for the Connecticut Sportsmen's Alliance.

The Sportsmen's Alliance is a statewide organization consisting of 165 sportsmen's organizations who are vitally concerned with water resources management. The Connecticut Sportsmen's Alliance fully supports House Bill No. 5883, water diversion.

MR. CHASLUCE: (continued)

Rather than testify at length on the need for this bill, we believe the preamble, section 2, is succinct and self-explanatory. We believe the bill contains adequate checks and balances both administratively and technically that should satisfy all parties. We have heard the voice of the people on this issue and their concern about water diversion without adequate study through last Fall's referendum on the Farmington River, which was soundly defeated by a 2 to 1 margin.

Further it appears that every major environmentalist group is in agreement on the necessity for passage of this bill. Considering this agreement on the issue and the careful scrutiny applied to the several meetings and changes in the bill, we believe this is not just a good bill, it's a very good bill. The public interest groundswell is there and the voters have expressed their interest. We don't think we need a study group. We think we need some action now. We would urge a speedy joint favorable recommendation. Thank you.

REP. BERTINUSON: Thank you. Are there questions? Thank you, Bob. The next speaker is Mel Schneidmeyer, to be followed by Laurence Buxbaum.

MELVIN SCHNEIDERMEYER: Rep. Bertinuson, Committee members, good evening. I'm Mel Schneidmeyer, United Technologies, Director of Environmental Affairs. I've left sufficient copies in the basket for all committee members of my comments, and I'll skip the general remarks.

United Technologies Corporation supports the proposed uses of the revolving fund contained in Bill 5810, that's section 2, but recommends changes in the proposed amount of the revolving fund and its assessment mechanism.

Regarding the use of the revolving fund, we strongly support the refunding of the oil and gasoline and hazardous waste spill fund established in Public Act 79-605. These funds have been appropriately directed toward clean up of spills of unknown origin. We strongly support the establishment of an adequate source of funds that could be used to match the 10% needed for super fund

SEN. SKOWRONSKI: And where did you get that figure?

MR. BUXBAUM: From posted prices as well as indeed from what I have inquired of our own people.

SEN. SKOWRONSKI: So when you say posted prices, that 23% markup figure is something that can be documented?

MR. BUXBAUM: That is correct, Senator.

SEN. SKOWRONSKI: I would be interested in having that kind of documentation if you had it, or if it were reasonably available.

MR. BUXBAUM: We would be pleased to provide it to you.

SEN. SKOWRONSKI: Thank you.

REP. BERTINUSON: Are there other questions? Thank you very much. The next speaker is Maria Walker.

KARL WAGENER: Excuse me, Rep. Bertinuson. Ms. Walker had to leave.

REP. BERTINUSON: You are our next speaker, to be followed by Charles Nielsen.

MR. WAGENER: If I may, Chairman, Maria Walker was going to testify for the Connecticut Association of Inland Wetland and Conservation Commissions. Basically, I do know that they were going to support the diversion bill and they had some questions about its possible impact on the jurisdiction of the Inland Wetland Commission. And I believe they're going to be talking to you in the future about that.

REP. BERTINUSON: Fine.

MR. WAGENER: I'm here also to address Bill 5883, the diversion bill, and also the surcharge bill.

The bill is not premature, the diversion bill that is. It's been needed for quite some time. And I think the need for this bill has been adequately discussed in your meetings. I would agree with Sen. Leonhardt who

MR. WAGENER: (continued)

spoke earlier, that everywhere that the bill requires the applicant to study alternatives, that the bill be explicit, to read alternatives including reasonable conservation measures. And I might suggest substituting cost effective conservation measures.

We are aware that many water companies regard conservation as unnecessary except during times of drought. But I don't think such comments are addressing the proper type of conservation program. Water companies tend to discuss conservation in terms of having people wash their cars or shower less frequently during times of drought. But these types of conservation are ineffective except during times of crisis.

We're talking about something else. We're talking about the water companies paying to distribute perhaps, or perhaps to install, water saving equipment in residential and commercial customers. The cost of such programs could then be recovered through the rates. This would be similar to the types of energy conservation programs that somebody like utilities are getting involved in.

The point is not conservation for conservation's sake. The point is that expanding water supplies through conservation may be less expensive than developing a comparably sized new water source, such as a reservoir or a well. Now I don't know if such a program would actually be cheaper or not. But I would think the water supplier should be required to consider the comparative costs of such permanent conservation measures.

Also the second point, we're aware of the concern over the requirement that all existing diversions come in for a permit. This is necessary for the DEP to collect all of the essential information. Perhaps a recording requirement could be substituted for some of the smaller existing noninterbasin diversions. But the point is to get all of the information into the DEP so that they can do the planning that the water companies are talking about and advocating.

I would like to turn now to the surcharge bill. And we support that include funding for the

MR. WAGENER: (continued)

enforcement and monitoring work of the DEP. And it should. I think there are 4 points to consider. The first is that (inaudible) careful vigilance in monitoring and enforcement would help to clean up the image of hazardous waste and of hazardous waste producing industries. And I would think that industry would want to know that there is an adequate monitoring and enforcement action going on. This I think might help the citizens of our state feel a little more comfortable, help us get some hazardous waste sites cited in the state.

The fourth point is that I could imagine if we had an expanded hazardous waste enforcement staff, it could actually help some of the smaller companies who are subject to these hazardous waste regulations. And that is when the enforcement staff go out, they could advise some of these companies and help them correct any mistakes before any kind of disaster happens which will ruin the credibility of companies and their ability to handle these wastes. That does conclude my comments.

REP. BERTINUSON: Thank you Karl. Are there questions? The next speaker is Charles Nielsen. Is he here? Okay. We're on page 2, that's marvelous. The next speaker is Anita Loalbo, to be followed by Roger Koontz.

ANITA LOALBO: Good evening. For the record, my name is Anita Loalbo. I am a staff attorney for the Connecticut Business and Industry Association, representing 4200 firms which employ over 600,000 men and women in Connecticut. I'll try to be brief due to the lateness of the hour and I'll submit a complete copy of my testimony for members of the Environment Committee to look at later.

REP. BERTINUSON: Could you speak up a little bit? I think you need to be a little closer to the microphone.

MS. LOALBO: I just want to tell you that I welcome the opportunity tonight to speak this evening in strong support of House Bill 5810, AN ACT IMPOSING A TAX ON GENERATORS OF HAZARDOUS WASTE.

MS. LOALBO: (continued)

They fall in the middle category at a central rate.

REP. BERTINUSON: You mean (inaudible)

Are there other questions? Okay. Thank you. The next speaker is Roger Koontz. I'm not sure if I have that right.

ROGER E. KOONTZ: You did, thank you.

REP. BERTINUSON: To be followed by Holly Schadler.

MR. KOONTZ: Thank you, Representative. My name is Roger Koontz. I am representing the Conservation Law Foundation of New England. I would like to testify in support of Bill No. 5883 concerning water diversion.

At a time when the limitations of our water resources are becoming all too apparent, we believe it is essential that a comprehensive planning mechanism be adopted. This bill proposes a reasonable and fair procedure in which the appropriate questions will be raised, considered, in reaching decisions.

I would particularly like to applaud the bill's attention to conservation as an essential tool in meeting our water supply needs. Our experience with other scarce resources in the energy area demonstrates that we should first insure that we are using present resources efficiently before investigating the economic and environmental cost of obtaining additional supplies.

There is mounting evidence that water conservation can do much to reduce the dimensions of our water supply problems. I urge you to give this bill a favorable report and to work for its enactment into law. Thank you.

REP. BERTINUSON: Thank you very much. Are there questions? At this time I would like to have added to the transcript a statement by Burke Spellacy on Raised Committee Bill 5883. And our next speaker is Holly Schadler, to be followed by Susan Merrow.

HOLLY SCHADLER: Members of the Environment Committee, I am

MS. SCHADLER: (continued)

Holly Schadler, Director of the Sierra Club's Connecticut Chapter, an environmental organization with over 4,000 members in the state. The Connecticut Chapter strongly supports 5883, AN ACT CONCERNING WATER DIVERSION.

The review and thorough consideration of proposed diversions is clearly the only way to protect our water resources sufficiently. I am pleased to see the emphasis also on water conservation. We commend the DEP on their response to the water resource questions which have become quite pressing in Connecticut and we urge the Environment Committee to support this bill.

REP. BERTINUSON: Thank you very much. Are there questions? The next speaker is Susan Merrow.

SUSAN MERROW: My name is Susan Merrow. I represent the Connecticut Chapter of the Sierra Club, a national environmental organization with 4100 members in this state.

On their behalf I am urging you to support passage of the bill to create a hazardous waste management fund through a system of taxation of waste generators. There is no need to reiterate for you, the members of the Environment Committee, the enormity of the hazardous waste problems in our state, the problems of properly regulating that waste, or the potential for disasters which are expensive in terms of human health as well as cleanup costs.

There is no need to remind you that as our state programs are currently staffed and funded, we are unequal to the task of responding adequately to waste problems. Raised Committee Bill 5810 outlines a reasonable way to deal with waste problems, a tax of between 2¢ and 5¢ per gallon, borne appropriately by the generators and ultimately the consumers of their products.

Bill 5810, however, has a major flaw in the area of disbursements which needs to be rectified. While the cleanup of waste and the providing of drinking water are suitable matters for the disbursement of the \$1 million to \$3 million fund, it leaves unaddressed the serious matter of understaffing in our DEP's hazardous

MS. MERROW: (continued)

waste division. At present, 14 staff persons, including only 4 field inspectors, are struggling with the job which the EPA estimates should require 45. There is something very backward about spending to clean up, contain and mitigate problems, without spending to prevent these problems in the first place.

The citizens whose lives or drinking water supplies will be disrupted by hazardous waste spills or leaks, no matter how prompt the cleanup or available the clean water, would be better served by the preventing of the disruption in the first place.

As the Chairperson of the Connecticut Environmental Caucus, I can say that we've given considerable time and energy to preparing a resolution on the DEP budget, which includes the recommendation that DEP revenue should be developed from permit fees and other taxes upon the regulated individuals and industries. Again we urge you to give favorable consideration to the necessity of a hazardous waste management fund, keeping in mind the need for a bill which addresses the problem of adequate staffing in the DEP. Thank you.

REP. BERTINUSON: Thank you. Are there questions? The next speaker is Margaret Melady. Has left. Margaret Quigley, to be followed by Marshall Chasluce.

MARGARET QUIGLEY: My name is Margaret Quigley and I am from Windsor, Connecticut, speaking for the League of Women Voters of Windsor. The Windsor League of Women Voters offers strong support for the Raised Committee Bill, No. 5883, AN ACT CONCERNING WATER DIVERSION.

Since the November 1981 MDC referendum question requesting appropriation of bonding for water diversion on the Farmington River, the League has become acutely aware of the need for such legislation. Along with our national and state organization, we have long supported a regional long range approach to water and land resources planning.

Studies of alternatives, including the conservation alternatives, and studies of environmental impact are imperative. We support the citizen's right to know and

MS. QUIGLEY: (continued)

believe that democratic government depends upon their informed and active participation. Adequate notice of proposed action via publications, public meetings and accessible records, allows for this democratic process.

An area of concern lies with those bodies officially notified of the DEP hearing. We urge you to consider that along with notification of state and local parties, appropriate regional planning agencies, such as the Capitol Region Council of Government and the Gateway Commission, be included. After careful consideration of this bill, we, the Windsor League of Women Voters, feel that the Environment Committee has appropriately addressed the areas of our concern. Please consider our recommendations to include regional representation and know that we support your efforts to regulate water diversion. Thank you for allowing this opportunity to present this statement.

REP. BERTINUSON: Thank you. Are there questions? The next speaker is Marshall Chasluce. I think he may have already spoken. Robert Reinert, to be followed by William Guillame.

ROBERT REINERT: Thank you. My name is Robert Reinert. I am Executive Vice President for Bridgeport Hydraulic Company. I will try to get through my remarks as quickly as possible.

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We do have an abundant supply of good quality water in Connecticut. Our company has served for over a century now to a point where we are supplying the needs for 400,000 people in some 15 cities and towns in the Southwestern part of the state. We do recognize the need to protect and effectively plan for the use of our water resources. We welcome the state's assistance and its cooperation in that task.

We do need a rational and consistent policy for water diversions. To that end, we would support legislation which would improve the present statutes. Regretfully, the proposed bill does not help but instead it will hinder the water supply in our state.

MR. REINERT: (continued)

There is no water crisis in Connecticut. Not now and there won't be in the future. We've got enough water and we should use it wisely to help maintain a strong economy and high quality of life. Conservation is desirable. It's in the best interests of water utilities and we favor it. But we do not favor mandating it. In our system, conservation is in fact occurring. We peaked at 70 million gallons per day some years ago, and have reduced that demand down to 61 million. That's conservation and it's going to continue.

It should not be legislated nor artificially imposed. Punitive rate structures would be damaging for people and to our industry alike. The proposed bill cannot add to water supplies by requiring that existing supplies be rejustified via a permit system. It only has the potential to decrease what we have now. Existing supply facilities, for these we've had our rights long established and productively utilized for the public good, have got to be exempted.

Where localized problems have been shown to exist, they are small in magnitude in general and they are easily corrected. Our problem in Connecticut is not one of supply, it's one of transmission, an interconnecting capacity. Responsible state agencies can now under present authorities require adequate supply capacity. They should require interconnections where they're needed and where they're economically feasible. The authority to do so must be applicable to all water utilities, both investor owned and municipally owned alike.

Regulation of the water utilities is fragmented now. The DEP already regulates us with respect to diversions and we have to get their approval to sell to another utility. Adequacy of service is regulated by the Department of Health Services and the Department of Public Utility Control. The DPUC also regulates us, investor owned utilities, for rates and financing.

We've got a number of bills before the Legislature dealing with the major issues facing the utilities. These include adequacy of service, ground water, and

MR. REINERT: (continued)

more importantly, the fragmentation of regulation. The diversion bill itself, although it's broadly written, seems to be aimed at water utilities. We'd like to see a study of all of these issues before we proceed with any sweeping regulation and legislation. The bill as written almost certainly would be dysfunctional to the purpose of getting a satisfactory adequate supply of water to the people in this state.

If there is to be a study, if there is to be a task force, we'd like to see the water utility professionals represented on that study. The cost of the proposed bill would be tremendous. It surprised me but I find that projecting what would be required, who should give final approval of all of our existing diversions, there are lots in our company, I project a cost of anywhere from \$2 million to \$2½ million. That's for what we've got already. That's not for what we're going to have to get for the future if any considering the conservation and very low rate of growth and demand that we face.

That's the cost just to the utility. What about the cost to administer this? These are going to be great considering the staffing requirements just to analyze all those impact statements, conducting the hearings, and to proceed with enforcement.

I note that the raised Bill 5883 does not contain criteria relating to the economic implications of diversions. What impact would the DEP's refusal to allow a proposed diversion have on the region to be benefited? These aren't addressed. We do regard the protection of the environment as a high priority. In fact we've done that. We've been named various awards as a conservationist. But we have to deal in a product which has broad economic and health implications, as well as economic and environmental implications. These have to be given appropriate weight.

Belt 14

We are urging that the proposed bill be tabled until we have all the facts. As a temporizing measure, we do believe that existing statutes can be improved. The approval authority of the DEP, which they already have under 25(a) can be expanded by a eliminating present

MR. REINTERT: (continued)  
exemptions, and we can bring ground water under the  
diversion statutes.

Downstream interests, incidentally, are already protected  
in the form of the DEP's existing minimum stream flow  
regulations.

In summary, then, we feel that the act as written would  
be damaging and should not be enacted for the reasons  
stated. We have plenty of water now. There is no crisis.  
The bill can only hurt us. Existing supplies should not  
be required to be permitted. A task force study of all  
of our water utility issues is required prior to any  
sweeping new legislation. And an integrated study of  
our statewide water supply needs is also required.

There would be enormous costs of compliance and admini-  
stration and the bill completely ignores economic  
criteria and impact. Finally the existing DEP authority  
to review and approve diversions can be clarified and  
improved by simple amendment, groundwater diversions  
can be included in those amendments.

We do appreciate this opportunity to comment on so vital  
an issue to public water supply. Thank you.

REP. BERTINUSON: Thank you. Any questions?

SEN. SKOWRONSKI: One question, Mr. Reinert. How would you  
react to a bill similar to what is written right, which  
is proposed right now but which would apply only to new  
diversions taking place after the effective date of this  
law?

MR. REINERT: The fact that existing diversions would be  
included is the single most damaging aspect to public  
water supply. And that would be a large step in the  
right direction.

SEN. SKOWRONSKI: So that would make it more acceptable?

MR. REINERT: Yes, sir, it would.

SEN. SKOWRONSKI: So that, do you think the way things are

SEN. SKOWRONSKI: (continued)  
laid out in the bill if applied only to new diversions,  
would that be a reasonable regulatory scheme?

MR. REINERT: Well, I think in practicality new diversions  
aren't covered. I do think that the existing statutes  
should be improved. And if this bill is the vehicle  
to do so, I think that would be the thing to do. But  
it does need additional improvement. A lot of technical  
problems exist. The definition of diversions. They are  
so broadly written as to impact anyone stepping in a  
stream.

I do think there are some good things in it. I think  
it's time that we brought groundwater under the diversion  
statutes and under the regulation of the appropriate  
authority. But we've got a lot of problems that aren't  
just diversions. Those problems should be looked at  
in the context of the broad picture and not proceed  
helter skelter with a bill that is just not constructed  
properly at this time. It needs additional work.

SEN. SKOWRONSKI: Okay. Thank you very much. Further questions?  
Okay. The next speaker is William Gulliam to be followed  
by Richard McHugh.

WILLIAM F. GULLIAME: My name is William F. Gulliam. I'm the  
Senior Vice President of Operations of the Connecticut  
Water Company in Clinton. I'm here to speak in opposition  
to House Bill No. 5883, that would provide for control of  
diversions of water through a permit procedure.

I'm opposed to the proposed legislation for the following  
reasons. There is no clear evidence that the supply of  
water in the state as a whole is inadequate. However,  
there is evidence that it may not be well located in some  
instances. The major impetus for this bill presumably  
comes from the well-publicized shortages in Fairfield  
County and the efforts of the MDC to divert water from  
the Farmington River.

It would appear that such problems could be dealt with  
by legislation on an individual basis rather than a  
broadly based law which would create an administrative  
problem where no natural problem exists. It should be a

MR. GUILLIAME: (continued)

principle of legislation in a state as compact as Connecticut, that laws be narrowly drawn to meet the specific problem.

In my estimation one of the most serious of the many problems with the proposed bill is the additional cost to be borne by water utilities and their customers. Connecticut Water Company provides public water service to about 150,000 people in 24 towns in the state. I estimate that the potential cost to my company and hence to my customers to apply for the proposed permits for existing diversions, could be about \$3½ million to \$4 million. This would translate to an increase in water rates of about 25% to 30%.

This estimate does not include an allowance for additional applications for new sources or continuing costs of maintaining permits once they are granted. And this doesn't take into account any additional costs that might be incurred should an existing use of water be denied and an additional source have to be developed to replace it.

There are 2 proposed bills before the General Assembly which, with some modifications, would be acceptable. These are 5525, ground water supply task force, and 5605, the study of state agency authority over water. It is necessary to obtain the facts and know the extent of the problem before legislation is passed. The nature of the resource involved is too vital to risk hasty and imprudent legislation.

A broadly based and properly funded commission to study water and the legal control mechanism over it is required as a first step. Then fair legislation may be promulgated to assure adequate quantity and quality of water throughout the state. Our company participated in the preparation of a statement made earlier by the Connecticut Water Works Association and supports that view. Thank you.

SEN. SKOWRONSKI: Thank you very much, Mr. Gulliam. Any questions? Okay. Next speaker is Richard McHugh, to be followed by Ben Ebner.

RICHARD P. MCHUGH: Thank you, Senator. I'd like to speak in regard to Bill No. 5883, AN ACT CONCERNING WATER DIVERSION. My name is Richard P. McHugh. I reside at 35 Wintergreen Lane, Cheshire, Connecticut, and I am the Executive Director and Chief Executive Officer of the South Central Connecticut Regional Water Authority, which conducts its water business in the name of the New Haven Water Company.

The South Central Regional Water Authority was formed in 1977 pursuant to Special Act 77-98, which identifies the Authority's purpose as providing and assuring an adequate supply of pure water at reasonable cost. The Authority encompasses the following 17 towns: Bethan, Branford, Cheshire, East Haven, Guildord, Hamden, Killingworth, Madison, Milford, New Haven, North Branford, North Haven, Orange, Propsect, Wallingford, West Haven and Woodbridge.

The New Haven Water Company provides water service to approximately 400,000 people within its district and we do not have a water crisis at this time and we do not see one in the future.

The New Haven Water Company has participated in the preparation of the statement previously submitted by the Connecticut Water Works Association, and it fully supports that statement. In addition to our support of the Connecticut Water Works statement, the New Haven Water Company believes that the Act concerning water diversion is premature, unnecessary and in many ways, counterproductive.

It appears that in response to a number of isolated problems associated with proposed diversions and/or ground water withdrawals, the Department of Environmental Protection in lieu of addressing these isolated problems individually, has chosen to not only regulate all future diversions, but also to subject all present diversions to approval.

These existing diversions are the result of far-sighted planning and management decades ago and they are the sources of supply that have allowed the well managed water utilities in the state to avoid water crises not

MR. MCHUGH: (continued)

only during the past year, but also during the more severe droughts of the mid 1960's. Instead of addressing the problems at the locations where they exist, the Department of Environmental Protection chooses to subject the well managed utilities to an unnecessary and expensive permit process.

We estimate that the proposed permit requirements for our existing water supplies would cost the New Haven Water Company approximately \$2 million and this would necessitate an increase in water rates. This is an unfair and unnecessary burden for our consumer. Furthermore, the permit process as presently written could have an adverse impact upon future capital financing which is necessary in order to meet the requirements of the Safe Drinking Water Act.

The New Haven Water Company is presently in the final stages of issuing approximately \$12½ million in revenue bonds and we have been advised by our financial consultants, Morgan Guaranty, that disclosure statements relative to this proposed diversion bill will have to be included within our official statement.

This disclosure statement could have an impact on our ability to issue these bonds or it could have the effect of increasing the interest rate that will be necessary to issue these bonds. In short, the proposed diversion bill not only does not constructively address the adequacy of water supply and water quality, but it could actually act as an impediment to the operation of many of the water utilities in this state.

The New Haven Water Company recognizes the important role that the state has in protecting Connecticut's valuable water resources, but in our opinion, prior to any allocation of the water resources of the State of Connecticut, a comprehensive water supply study of the entire state should be completed. This study should not be done piecemeal and it should be performed by a competent consultant or organization, such as the Corps of Engineers.

This study should determine the existing and future water supply needs of the entire state. It should determine the projected populations and water demands of the entire

MR. MCHUGH: (continued)

state and then address the problem of matching the water resources with the demands. The New Haven Water Company strongly recommends that the state start immediately to commission this study. We also recommend that the water supply industry have representation on a task force that would cooperate on the study and review its progress and results.

The New Haven Water Company is convinced that this comprehensive study is essential to the preservation and rational allocation of state water resources and the company is committed to cooperating in the implementation of the study's recommendations. This type of cooperation between the state and its water utilities will result in the needed protection and optimum use of our valuable water resources.

Just in case you don't ask me the question as to relative, to whether if you change the bill and only included future diversions, I think that would be completely acceptable to New Haven Water. But I would also state that I believe that the request to carry on the statewide study is necessary. I think the state has gone too long without identifying where the resources are and where they are needed. There's many big utilities within the state that had surpluses during the entire so-called drought of a year ago.

The proper management of the waters would result in no shortages throughout the state. Thank you.

REP. BERTINUSON: Thank you, Mr. McHugh. I do have one question on the existing diversions. I think most people seem to agree that there are some existing diversions that probably were either unwise, if not illegal. Can you suggest a way, if we were to exempt existing diversions, I think we're concerned about being able to get at a few and I agree that perhaps to do that we don't need to put everybody through the permitting process.

MR. MCHUGH: I think if there's illegal, if they're illegal, they could be addressed through the existing laws. Perhaps some time period during which if no major objections were raised to existing diversions, then a

- MR. MCHUGH: (continued)  
permanent permit could be issued. If major objections were raised, perhaps then they could come up for review.
- REP. BERTINUSON: Some kind of a complaint requirement written in to apply to existing diversions, rather than automatically including them.
- MR. MCHUGH: Yeah, I think, I believe we could live with some type of complaint but, you know, it would have to be a well formed complaint, not just one person complaining or one fisherman complaining.
- REP. BERTINUSON: If you come up with any language like that, we'd be glad to see it.
- MR. MCHUGH: We will definitely work on it and submit it to you.
- REP. BERTINUSON: Are there other questions?
- SEN. SKOWRONSKI: Mr. McHugh, just one other question. I drifted off there for a moment. You indicated that somehow the existing, the proposed bill would adversely affect your bonding possibilities. Could you just repeat that point again.
- MR. MCHUGH: Yes, we spoke as recently as last night with our financial advisers because we are in the middle of putting \$12½ million, approximately \$12½ million, out. And their comment was that they believe we will have to disclose that there is a proposed bill that could have an impact on our existing supply. Within our official statement we list our supplies, we make statements which are confirmed by consultant engineers that our supplies are completely adequate.
- Now all of a sudden this bill would subject them to perhaps allocation in another direction or cancellation, we don't know.
- SEN. SKOWRONSKI: And if we were to put in some sort of exempt existing diversions but provide for some sort of reexamination of certain ones that might be illegal or unwise to complaint mechanism, how would that affect

SEN. SKOWRONSKI: (continued)  
your bonding situation, do you think?

MR. MCHUGH: I believe it would either remove the necessity to disclose or would make the disclosure so innocuous it would not affect the issue.

SEN. SKOWRONSKI: Okay. Thank you.

REP. BERTINUSON: Thank you. Are there any other questions? Next speaker is Ben Ebner, followed by Andy Sims.

BENEDICT H. EBNER: Good evening. My name is Benedict Ebner. I'm Superintendent of the City of Waterbury Bureau of Water, and I'm here this evening to speak toward Raised Committee Bill 5883.

The City of Waterbury Bureau of Water is a municipal water utility, supplying water to approximately 120,000 people in Waterbury and 4 surrounding towns. We have participated in the preparation of the statement of the Connecticut Water Works Association and endorse those comments. We especially agree that existing active diversions should be given permanent exemptions.

Belt 15 Specifically, the Bureau of Water objects to the generalization regarding inadequate planning by water utilities. During this last period of rainfall deficiency, Waterbury did not require strict voluntary or mandatory conservation practices, a tribute to the planning of previous water supply officials. We did however ask that the public be judicious in their use of water. This policy is maintained in wet years as well as dry years.

In the early 1920's, the City of Waterbury was successful in securing diversion rights for 37 square miles of drainage area on the Shepaug River from the Connecticut State Legislature. These diversion rights were accompanied by satisfactory compensation adjustments, approximately \$58,000, with downstream users. This diversion has been in operation for the last 50 years, with a history of excellent relations with our downstream neighbors.

In summary, we feel this bill is premature, imprudently brought, and ambitious, especially as a response to only

MR. EBNER: (continued)

a small number of site specific problems in the state. It would undoubtedly prove to be very costly to administer and to comply with, and does not give enough priority to public drinking water supplies.

We also support a study of the concepts underlying the proposed act and support Raised Committee Bill 5605, A Study of State Agency Authority Over Water. Thank you very much.

REP. BERTINUSON: Thank you. Are there questions? Next speaker is Andy Sims, to be followed by C. Kansler.

ANDREW SIMS: My name is Andrew Sims. I'm the Director of Public Works and a city engineer for the City of New London, Connecticut. As such I have the responsibility for the Department of Public Works and Utilities, which includes the water utility in New London which services the communities of Waterford and New London and a single customer in Montville. I wish to speak about Raised Committee Bill 5883.

The act as written and distributed in the draft available tonight presents serious problems to most communities in Connecticut. I've already turned into the basket a formal resolution passed by the Water and Water Pollution Control Authority of the City of New London, in opposition to the bill, and therefore I won't go into the specific details of that.

However, I do want to make 2 points. The first is that several legislators and the DEP representative earlier this evening talked very eloquently about how well thought out and carefully drafted this bill is. The number of water people that you have already heard speak against it and that remain on your list coming after me, I think speak even more eloquently to the fact that this bill was drafted without adequate input from the industry.

The DEP representative was very sanctimonious about representing the needs of the citizens of Connecticut. I urge you to recognize that various water companies and the municipal or regional water utilities in the State of Connecticut also represent the needs of the citizens of

MR. SIMS: (continued)

Connecticut. We do so in a much more direct and specific way, in fact on a very much more long term basis.

The second point that I wish to raise is that the act as written does not address the real issue. The permitting of diversions is a technique. It's not a plan for management of the state resources. Section 9-d-7 of the proposed act proposes that one of the criteria for consideration in determining whether or not a diversion is granted is its compatibility with the policies and the programs of the State of Connecticut.

The fallacy with this requirement is that there is no such program in existence which deals with the full and complete management of Connecticut's water resources. I urge you to move instead towards the establishment of such a policy first. The water industry is willing to work towards establishing a full and complete management policy for the State of Connecticut. We recognize the need for such a policy and realize that our industry as a whole will benefit from same.

The permitting process is premature in the absence of such a policy. Raised Committee Bill 5605 provides a measure which, with modifications to ensure industry representation and with a timetable for response, could achieve this necessary first step, including the need to clarify the conflicting and overlapping jurisdictions of the state which currently exist. Thank you.

REP. BERTINUSON: Thank you, Mr. Sims. Perhaps I'll ask you again the same question we have been asking. If this bill were to only cover future diversions with some way of providing for a complaint approach for existing ones, would you find it at least more acceptable?

MR. SIMS: It would certainly make it more acceptable but there are still some very difficult features to deal with. The 25 year permit renewal situation places us in a very difficult position with respect to bonding. You've already heard Mr. McHugh speak of the possibility that he might face. I can offer a specific example within our own community. We are facing a need to construct a water

MR. SIMS: (continued)

filtration plant to comply with the state's Drinking Water Act. Our customer base consists of approximately 6500 New London customers and almost 4000 Waterford customers.

I cannot go to the bonding market because the contract which binds Waterford and New London is due to expire in 1987. Bond counsel has made a flat statement he could not certify a bond based on a customer base which could erode through the contract being changed in 1987, even though the possibility of that is extremely remote. It is a legal possibility. The 25 year renewal of permit may be a very remote possibility of a permit being cancelled, but the existence of such a renewal process would forever put a cloud on the ability to raise capital because we would always have to face the possibility of needing to replace existing supply should a permit be denied at some future time.

REP. BERTINUSON: Okay. Thank you. Are there other questions? Thank you very much. Next speaker is C. Kansler.

: Mrs. Kansler has left a written statement and has already retired.

REP. BERTINUSON: W. Buckley. Ken O'Donnell, to be followed by Larry McIntyre, if he's still with us.

KEN O'DONNELL: Rep. Bertinuson, Sen. Skowronski, I am Ken O'Donnell and I'm President of the Connecticut Bass Federation. I'm also a member of Bass Angler Sportsmen's Society which numbers over 2,000 in the State of Connecticut. I'm here tonight to endorse Raised Committee Bill No. 5883.

I think the referendum that took place last Fall concerning the Farmington River diversion plans was a blessing in disguise. Because it showed a need for a bill, this bill or a bill similar to it, with some regulatory powers, watchdog powers, if you will. The before mentioned organizations have authorized me to come before you and highly endorse its support of proposed Bill 5883.

REP. BERTINUSON: Thank you very much. Are there questions?

SEN. SKOWRONSKI: Not a question but a comment, Ken. Some day hopefully it won't take as long as a river diversion or the water diversion bill to make some progress on the boat launch ramps that we spoke of last year.

MR. O'DONNELL: I would hope so.

SEN. SKOWRONSKI: Rep. Gibson is here also. When the two of us renew and reaffirm our commitment to that project, it's been a little bit slow in taking place.

MR. O'DONNELL: Gene, when I was out in the hall I was thinking about seeing if I could find a poster board and maybe draw a graph and I'd show you what water diversion can do to the bass, but I didn't think at this late hour you might be ready for it.

SEN. SKOWRONSKI: We've had our share of graphs for the evening, but thanks anyway, Ken.

REP. BERTINUSON: The next speaker is Larry McIntyre, to be followed by Dave Russer, I believe.

LARRY MCINTYRE: My name is Larry McIntyre. I am representing the Naugatuck Valley Bass Masters. We just want you to know that we endorse this 5883. Thank you.

REP. BERTINUSON: Thank you. Admirably brief testimony. Dave Russer.

CULVER A. MODESETTE: My name is Culver Mosidette. I'm President of the Farmington River Watershed Association, and I'm here to speak to Bill No. 5883. An Act Concerning Water Diversion.

The Farmington River Watershed Association consists of over 1,000 members, mostly from the 26 towns in the Farmington River Valley. In addition to individuals, our membership includes approximately 100 companies in 9 of the towns through which the river flows. It was founded 28 years ago in 1953. Our organization has a 28 year history of providing technical assistance, educational programs and the coordination of competing uses of the river. Notably in 1980 we became the first and only organization in Connecticut to receive the

MR. MODESETTE: (continued)

U. S. Department of Interior highest award. Our Association has enjoyed a long standing working relationship with the Army Corps of Engineers, DEP, the Stanley Company which operates the rainbow dam and hydrofacility in Windsor, and at least until recently, the Metropolitan District.

It is our hope that a profuctive and friendly relationship with MDC is in our future. However, last Summer and Fall found the MDC pitted against us, the Farmington River Watershed Association, and the valley towns in the Farmington River Watershed in a fight over MDC's claimed rights to divert the river and also a claim that there was a water crisis. That fight is history and need not be discussed any further this evening.

Your committee has raised a good bill, Bill No. 5883, An Act Concerning Water Diversion, and you should make it the law of the land. It requires that the right questions are asked prior to diversion. Questions about whether the towns' sewage treatment plants will be able to function, whether the drinking and agricultural uses of the river and other waters can continue after diversion, whether fish and salmon can swim after diversion, whether wetland functions will be impaired.

It requires the disclosure of the particulars of the diversion and evaluation of the plan by a competent arbitor, the Department of Environmental Protection.

This evening from the bill's oponents you have heard and will hear that the bill is not perfect, and that's probably true. What legislation is? Experience is a great teacher and the majority of bills offered each session amend existing legislation based on what experience teaches us. The printed bill has already been discussed at length in study groups and the committee is in receipt of Assistant Attorney General Grady's amendment, which we also endorse.

This evening you have been told what's wrong with the bill and why it should be studied for years and years. We choose to look at what's right with this bill. And I'm pleased to say that virtually everything is right with

MR. MODESETTE: (continued)  
this bill. It is of age, we need it now. The Farmington River Association endorses it without qualification. This bill is a statewide bill. It transcends regional issues. It is good for every citizen of our state. It positively addresses one of the most critical problems facing our nation now and in the next century, a good source of pure drinking water.

To paraphrase a statement made by our opponent, the MDC last Fall, it helps insure the quality of drinking water for the babies of Connecticut for the 21st Century. Thank you.

REP. BERTINUSON: Thank you, Culver. Questions? The next Belt 16 speaker is P. Shanks. John Crosman. Dan Kiley is the next speaker, to be followed by Robert Leonard. And we are on the last page.

DON KILEY: Good morning. I'm Don Kiley from Monsanto Company in Bloomfield, Connecticut, and would like to, if not impress you with my thoughts, certainly impress you with my brevity, regarding House Bill 5810 on the surcharge on hazardous waste.

Our company recognizes the need to provide state capability for the 10% match to the federal superfund act. We believe a tax on manifested hazardous waste is a proper vehicle to raise these matching funds. A flat rate tax on gallons and pounds of such waste is preferable to the proposed sliding scale. Hazardous waste should be viewed as such and taxing waste at different rates causes confusion and penalizes the smaller businesses who do not have the analytical capabilities that the larger companies maintain.

There should be no charge for incineration, but tax should be on land disposed waste. The fund should be a specific amount and capped. The bank balance approach is unnecessary and only encourages the slushfund approach encouraging ineffective spending.

A date certain to mark the end of the fund should be contained in the bill. All of us in Connecticut wish these sites cleaned up and we suggest coinciding the mandate with the federal law of December 11, 1985.

MR. KILEY: (continued)

Legislation should stress responsible party cleanups. And this should allow the state to recover expenditures of the fund and make it do the work several times over. Based on this, we feel the \$3 million is excessive.

Lastly the strong direction of this legislation should be to support the federal legislation and that only, and not to become a vehicle to expand state agencies that will maintain their federal funding, nor to provide services for which industry may not have had any responsibility, or otherwise decrease the relative ability to compete with non-Connecticut companies. Thank you.

REP. BERTINUSON: Thank you, Mr. Kiley. Are there questions? Next speaker is Robert Leonard, Schuyler Thomson.

SCHUYLER THOMSON: Thank you. I am Schuyler Thomson. I am the Competition Director for the Connecticut Canoe Racing Association. I thank you for this late opportunity. It's sort of like the 50th mile of a 70 mile race where it's not so much whether you win, it's just getting there. But although it's not winning in that situation that's concerning us. It's winning tonight.

The Connecticut Canoe Racing Association and its 400 members and the over 1,000 people who have paddled in our races in the last 3 years are quite concerned that Bill 5883 be passed, if not in the exact form in which it was drafted, then at least in some form similar. We are particularly appreciative of the fact that you are looking at a long range proposal for the water resources of our state.

Far too long has passed now without a general plan, companies going each it's own way, eventually bound to collide. In our support we have, however, one worry. We have heard extensive testimony here tonight about patching certain isolated situations and problems with certain isolated bits of legislation. By the time these bits and pieces of trouble have been patched over with legislation, you're going to have a crazy quiltwork,

MS. THOMSON: (continued)

messy sort of legislation reminiscent of the Farmington River boulder patch down near what we call the Boat Eater, impenetrable to all.

We feel very strongly that an overall plan, such as has been submitted tonight, is the only way in which we can completely plan for the future, maintaining the rights of all.

And finally, we have heard testimony about there must be a study committee, then there must be a study committee for the study committee, there must be more delay. If we delay much further, if this goes on through interminable studies, things will be done which should not have been done. Let's not make more problems. We urge, request and ask that you pass House Bill 5883. Thank you.

REP. BERTINUSON: Thank you. Any questions? The next speaker is Robert Tolles, to be followed by John Hiscock.

ROBERT W. TOLLES: I'm not sure at this hour whether it makes a great deal of difference, the sequence.

My name is Robert Tolles. I am President of the Farmington River Power Company and the hydroelectric facility owned by the Stanley Works that Culver Modesette mentioned in his remarks prior. We generally endorse the objectives of the bill as we understand them. The question of our understanding has become more of a mystery as the night goes on because I don't think there have been any other representatives of a hydroelectric utility appear here in what would seem to be a matter of concern to them.

If it is not addressed to the concerns of the hydroelectric people, then I would suggest that you make that one of your exemptions and save a great deal of our problem. I've left a note with your secretary concerning several of our suggestions and recommendations. Of course, you're existing diversion comments would be appropriate for a hydroelectric facility as well. And of course the inability to transfer rights for a hydroelectric power company would represent a confiscation of an investment far greater than your water companies are making where their involvements are limited simply to dams and do not

MR. TOLLES: (continued)  
represent investments in machinery and equipment over  
and beyond that.

We would like to follow the development of the bill and  
in fact where hydroelectric use and the involvements are  
necessary with them are in fact not covered by the bill.  
We tried to follow it as you developed the final act.  
Thank you.

REP. BERTINUSON: Thank you very much. Are there questions?  
The next speaker is John Hiscock, now you're on, to be  
followed by Robert Hasler.

JOHN M. HISCOCK: Thank you. My name is John Hiscock and I  
represent the Second Taxing District Water Department  
of Norwalk, Connecticut, which serves approximately  
10,000 customers in a portion of the City of Norwalk.

Since my position does not vary substantially from the  
industry position presented here tonight and the lateness  
of the hour, I wish to just submit my written testimony  
for the record. Thank you.

REP. BERTINUSON: Thank you very much. The next speaker is  
Robert Hasler, to be followed by Wayne Tyson.

ROBERT F. HASLER: Good evening. I want to commend you for  
hanging in there. I know you're as tired as I am so  
I'll try to keep it as brief as possible.

I am Robert Hasler, Manager of Plant Services for American  
Cyanamid in Wallingford, Connecticut. I appreciate this  
opportunity to present our views on H.B. 5810, An Act  
Imposing A Tax On Generators of Hazardous Waste.

The American Cyanamid Company operates 4 plant sites in  
Connecticut, 2 in Stamford and 1 each in Danbury and  
Wallingford. In 1981 we employed over 2,200 people  
with a payroll of \$49.5 million. We purchased \$27 million  
in goods and services and paid \$2.2 million in local and  
state taxes. Cyanamid produces a broad spectrum of  
products in Connecticut to service many industries.  
In addition, the central research and development for  
corporate requirements are conducted in Stamford.

REP. BERTINUSON: (continued)

to say that the intent of this bill was never to duplicate the superfund, although it continues to be interpreted as that by some people. The intent was a fund for hazardous waste management, and that's the way the bill was drafted. Now, you know, you can very well suggest other types of legislation that might be drafted, but the intent of this legislation was not to create a state superfund that tracks the exact function of the federal superfund. It was to create a fund for hazardous waste management that could include various aspects. And I think we keep saying that but people keep interpreting it to be a state superfund.

MR. TYSON: I appreciate that, Madam Chairman, but I do think that in view of the necessity of a state 10% match and the perhaps preemption in the use of that fund in the federal act, that it would be important as a priority to deal with that issue separately and distinctly so that there can be no confusion and then deal with other issues that may have a slightly different approach. I'm not saying that they necessarily do, but they may get a cleaner approach to them if they are addressed independently.

REP. BERTINUSON: Thank you. Are there other questions? The next speaker is Edward Smith, to be followed by Stephen Quish.

EDWARD J. SMITH: The Farmington River Anglers Association, an organization of some 200 concerned members devoted to preserving the Farmington River and its watershed, by endorsement and vote of the Board of Directors and membership, express their support of Committee Bill 5883, An Act Concerning Water Diversion.

Many concerns were voiced just a few months ago by a specific diversion project within the Farmington Valley. Now as then, we endorse any agency's efforts in fulfilling their mandate to ensure adequate water supplies for future generations. We applaud their concern and appreciate their planning for the future to meet these objectives. Then, as now, we are not opposed to surface or ground water diversions to meet future needs, provided that such action does not irreparably affect the integrity of any watershed towards continued existence as a viable

MR. SMITH: (continued)  
resource for the more than 200,000 licensed anglers in Connecticut.

Our concern then was less that answers were not forthcoming, it was more that questions were not being asked. Bill 5883 will do much to see that necessary and proper questions are asked. This bill is a bill for the times. Diversions made as a result of policy decisions without regard to potential environmental impact, cannot be allowed. No project should be undertaken until it has been proven to be prudent, logical and environmentally sound.

An Act Concerning Water Diversion will do much to see that the proper questions are asked, even if all the questions and even if all the answers are not forthcoming. Answers regarding the impact of a water system subversion on its ability to not only sustain itself as a fishery, but more broadly, this bill would require an adequate study of the full magnitude of the effects of any diversion on public health.

As a local example, we had the now dry East Branch of the Farmington and the Nepaug Rivers to demonstrate the irreversible effects of policy decisions made without regard to common ecological sense. This bill insures that no action can be taken without a presentation to an impartial regulator of all information to enable an intelligent review of the full social, economic and environmental impacts and evaluation of alternatives.

This bill will see that our water resources are both preserved and protected and thus made available to all citizens of Connecticut for all generations. The victory of this bill ensures that, not that diversions will be prohibited, rather the strength of this bill is that such projects will be regulated. While no bill can be perfect, Bill No. 5883 is more than we now have. Its strengths are in its transcendence over conditions to serve broad applications. The times demand that this bill be made law. It speaks not only to ground water diversions but surface waters as well. It goes beyond diversions and addresses hydroelectric regulation. To hesitate is to leave the decisions which affect every

MR. SMITH: (continued)

Connecticut citizen to the federal energy resource commission. To hesitate is to invite more federal control over local decisions.

The Farmington River Anglers Association endorses this bill without reservation. The circumstances demand immediate action. The state's interests demand this bill this year. Thank you.

REP. BERTINUSON: Thank you very much. Any questions? The next speaker is Stephen Quish, to be followed by Mrs. Reginald Franklin.

STEPHEN J. QUISH: My name is Stephen Quish. I'm Vice President of Mobile Redemptions, Inc. in West Hartford, Connecticut. I'm here tonight in strong support of Bill No. 365, the extra handling for redemption centers.

Mobile Redemptions Inc. is the largest redemption center in the State of Connecticut. I'd like to give a brief background on our company. We provide a daily service to 100 grocery stores, package stores and convenience stores. We pick up all their empties in bulk and remove them, requiring relatively no labor from the grocery stores. We take them out to our center, sort them and deliver them to the beer and soda wholesalers.

Our service eliminates mostly all the headaches to the retailers and saves the wholesaler all the cost of handling the returns. Redemption centers make the bottle bill work for Connecticut. If you don't believe me, compare a store that has the pickup service to one that doesn't. You'll find that the one that doesn't have it is dirty, unorganized and unsanitary. Most of you would be shocked to walk into the back room of your supermarkets.

In short, redemption centers are now trying to operate on a penny handling and whatever we can get from the retailer. Our overhead expenses include most of the same that a beer and soda company has. Yet you know that they are operating on far more than a penny a bottle. We are saving the wholesalers thousands of dollars, yet costing the retailer. Where is the justice?



886

11 March 1982

Senator Eugene A. Skowronski  
Chairman, Environment Committee  
and/or

Representative Teresalee Bertinuson  
Chairman, Environment Committee  
Room 400  
State Capitol  
Hartford, Connecticut 06115

re: Raised Committee Bill 5883.  
Connecticut Water Diversion  
Policy Act

Dear Senator Skowronski and Representative Bertinuson:

The enclosed statement is in lieu of testimony at the March 11th hearing and is for the record of the hearing.

Sincerely,

D. R. Crandall  
Manager

DRC:pp



5887

11 March 1982

STATEMENT ON RAISED COMMITTEE BILL 5883  
THE CONNECTICUT WATER DIVERSION POLICY ACT

Southeastern Connecticut Water Authority opposes this bill:

The impact of this bill would be complex, far-reaching and costly.

The water supply and distribution process is conceptually a process of diversion; therefore, this bill would eventually impact almost all water supply systems.

The bill commits the Department of Environmental Protection to have the most professional expertise in the substance and details of water utility operation. Staffing, consultants and attorneys will require substantial new funds for the Department of Environmental Protection.

Municipalities and other jurisdictions such as Southeastern Connecticut Water Authority will need significant additional money to comply with the bill. The bill implies that municipalities, districts, authorities and investor-owned utilities will act irresponsibly, will not consider alternatives, will not operate their utilities economically and effectively, and that regulation in addition to the Environmental Health Services Division of the Water Supplies Section, State Health Department and the Department of Public Utility Control is required. This is not true.

The bill also supposes that 25 year supply plans exist. This is not the case even in the Southeastern Connecticut Region where water supply planning is superior to almost any other areas of the state.

We believe that this bill stems from a specific proposed diversion. We are not aware of the specifics of that situation but it is not appropriate to address a single issue with what appears to be a hastily conceived, all encompassing concept.

This bill could seriously impair financing of major water projects. Revenue bonds indentures require very specific, detailed long term assurances. Even though many jurisdictions bond for 25 years, 40 years, bonding is appropriate for supply projects such as reservoirs, dams and major transmission facilities which have utility life exceeding 100 years.

STATEMENT ON RAISED COMMITTEE BILL 5883  
page two

11 March 1982 888

A State Water Plan -- then subsequent policy based on that plan may be appropriate, but regulations which leave policy and planning to the variable discretion of the Department of Environmental Protection will not solve problems but will create them.

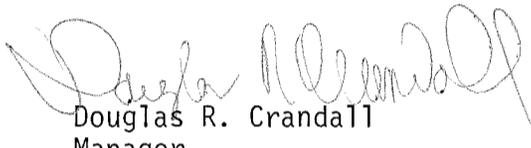
Legislation should be based upon the best objective advice, and particularly when the issue is as important to the economy as is this. There are many environmental consultants of international reknown who can advise the legislature.

This bill is a strange mix of policy and specific detail. While it is not all bad, its net effect may be to reinforce parochial barriers to stifle economic growth and to preserve the status quo for a priviledged few to the detriment of many.

The issue needs much more consideration.

We urge that the bill be rejected.

SOUTHEASTERN CONNECTICUT WATER AUTHORITY

  
Douglas R. Crandall  
Manager

DRC:pp

# CONNECTICUT FARM BUREAU

101 Reserve Rd. Hartford, CT 06114  
(3) 249-6208

## MEMORANDUM OF SUPPORT

MARCH 11, 1982

889

TO: THE HONORABLE TERESALEE BERTINUSON  
HOUSE CHAIRPERSON, COMMITTEE ON THE ENVIRONMENT  
THE HONORABLE EUGENE SKOWRONSKI  
SENATE CHAIRMAN, COMMITTEE ON THE ENVIRONMENT  
HONORABLE MEMBERS OF THE COMMITTEE ON THE ENVIRONMENT

FROM: KEN ANDERSEN, DIRECTOR OF STATE & NATIONAL AFFAIRS

RE: HB 5883 AN ACT CONCERNING WATER DIVERSION

Farm Bureau supports the concept of establishing a state policy on water diversion.

However, farmers support for HB 5883 will hinge directly on obtaining a statutory exclusion of agricultural activities from its provisions. Here is why.

The present language of 5883 is very broad brush and includes even minute diversions of ground or surface water in its provisions.

We believe this legislation should focus principally on larger water users. Water availability -- for purposes of crop and food production -- is one of the more important uses of water. However, the state's decentralized family-based farm operations tend not to be large users of water.

Our dairy, nursery, sod and vegetable farms will need to divert small volumes of water for normal farm activities such as building diversions for drainage of irrigation of cropland, excavation of farm ponds for livestock, and the use of wash water for processing commodities such as eggs and vegetables.

Farm Bureau would therefore ask that, under Section 13 (a), a #4 subsection be included to read...

"Agriculture and farming operations as defined in Section 1-19 of the Connecticut General Statutes."

- END -



CONNECTICUT CHAPTER

890

March 9, 1982  
2 Volovski Road  
Avon, CT 06001

Environment Committee  
State Capitol  
Hartford, CT 06115

RE: Bill 5883

Gentlemen:

I am writing on behalf of approximately 200 Connecticut Appalachian Mountain Club Whitewater Section members who support the proposed bill regarding diversions of our great recreational waterways in Connecticut.

The Raised Committee Bill 5883, if passed, will be of extreme importance in regards to all future river diversion projects which will be proposed by various commissions and persons.

Regulation as proposed in this bill is the only hope we have for saving Connecticut's beautiful rivers.

Sincerely,

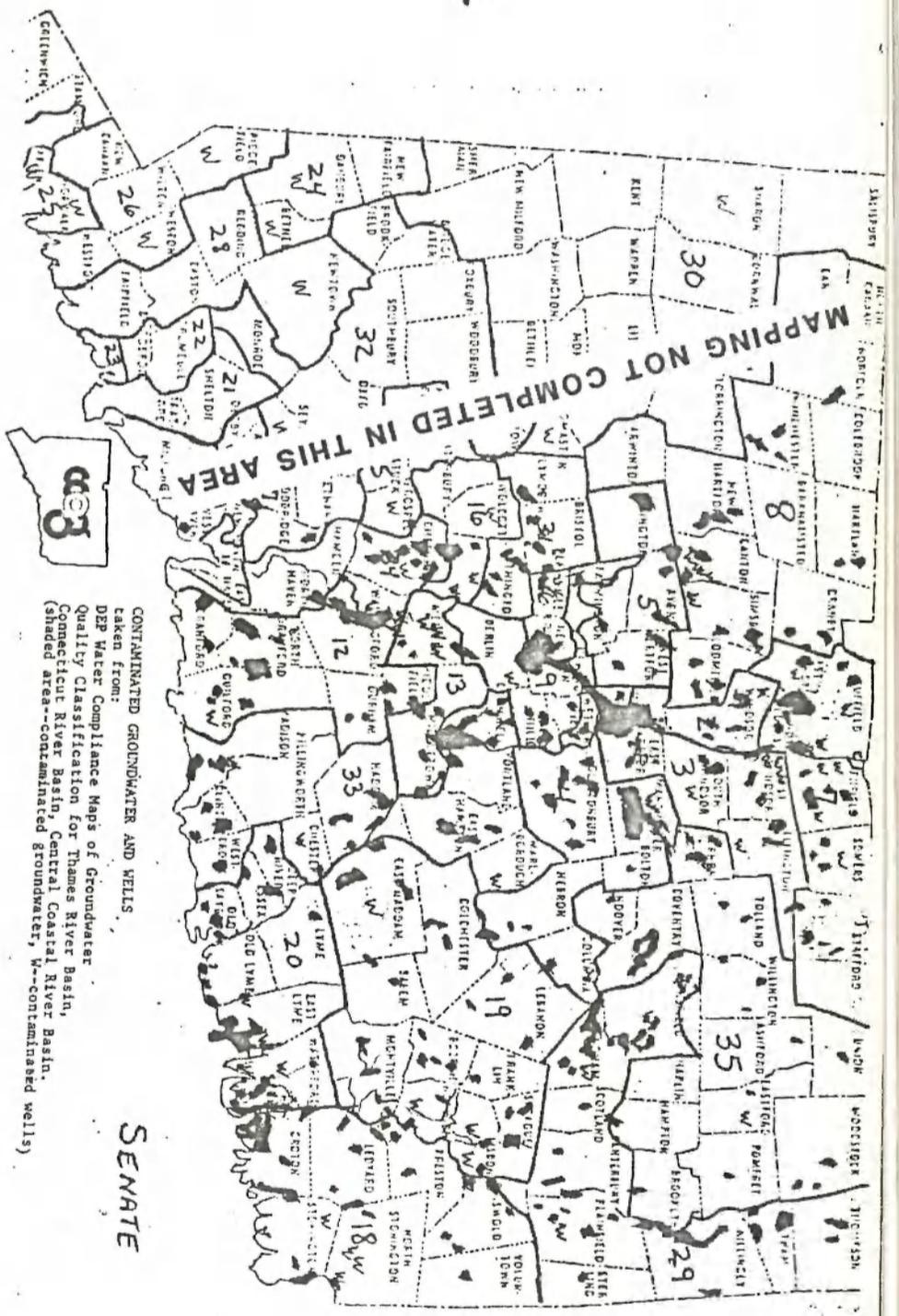
Kent Heidenis  
Chairman

KH:s

HB 5883

897

Groundwater



CONTAMINATED GROUNDWATER AND WELLS  
 taken from:  
 DEP Water Compliance Maps of Groundwater  
 Quality Classification for Thames River Basin,  
 Connecticut River Basin, Central Coastal River Basin.  
 (shaded area--contaminated groundwater, W--contaminated wells)

SENATE

Reverts A Stowinski.  
Representative T. Bortman

My name is Cornelius C Kenner  
and I am Chairman of the Water  
and Water Pollution Control Authority  
in New York.

I would like to go on record as  
being opposed to S. 11 No. 5883  
as it stands.

Cornelius C Kenner  
745 Park Ave  
New York

# AN ACT CONCERNING WATER DIVERSION

899

Draft Statement H.B. ~~5883~~ Act concerning water diversion

I am Phyllis Francklyn 408 Deercliff Road, Avon, Conn and I am a ~~Director~~ <sup>Secretary</sup> of Connecticut Conservation Association, C.C.A. Inc. C.C.A. is a Connecticut non-profit Organization whose purposes are the maintenance and preservation of the natural resources of the state, including its water resources.

Since it was founded in 1967, C.C.A has participated as a party in many matters, before the D.E.P. involving the tidal wetlands act. It has also appeared as a party in matters involving inland wetlands and has written and circulated papers with respect to water quality and other environmental matters. It has approximately 3,000 members throughout the state. H.B. ~~5883~~ is the most important regulatory act to come before the Legislature in many years. It is by definition more sweeping in its jurisdiction than the inland wetlands act, the tidal wetlands act, and the clean water act put together.

The act defines water so broadly as to include all surface and ground water. It defines diversion so broadly so as to include any activity resulting in any alteration of the flow of water. For jurisdictional purposes the act encompasses all of the matters included in the tidal wetlands, inland wetlands, and the clean water act. And because of these sweeping definitions it includes matters presently regulated by the department of health services in connection with wells, septic systems sewage treatment facilities, and the like.

In terms of other local regulatory agencies, it includes matters at present regulated by planning and zoning commissions having to do with storm water management sediment and erosion control, community wells, and matters involved in subdivisions and private commercial development.

In short, everyone who diverts the flow of water is subject to regulation by the D.E.P.

We question whether the consequences of this have been thoroughly considered.

A desire to regulate use of this vital natural resource, water, and its allocation between competing users, is necessary. But in doing so, this bill regulates by definition in addition to the allocation of use, all matters pertaining to water quality which historically has been the subject of regulation by other agencies, state and local. While it is indisputable that the long run regulation of water quality and quantity may not be sufficient and that a regulatory scheme for allocating water, in which the resource, thus preserved is used, may be necessary, we feel that no one is in the position to be satisfied that it is a necessity to go for this in such a rush.

The matter has been too hurriedly brought to the legislature with too little input from the other groups who have a long history of involvement in the matter of water regulation.

This bill only came to our attention in the past week. We understand that it was not brought to the attention of others such as the Connecticut Association of Conservation and Inland Wetland Commissions, and to local agencies and Planning and Zoning Commissions. The bill has not been circulated for advice and the understanding of either the public or other regulatory agencies. We feel that this is a vital part of the process of putting such an important piece of legislation into position in the State. The process as presently contemplated will see the regulation of everything with the creation of a system of exclusions. We feel that exclusions only cause difficulty in the determination of what is within them. Better to think through that which it is desirable to regulate and create the statute in terms of this. Act in haste and repent in leisure may well be the result of action on this matter at this time.

We also question whether or not it is possible to put into place the necessary administrative support that will be required to manage the programs envisaged by this except on a very selective basis.

Perhaps those good ~~people~~ <sup>people</sup> who are backing the bill would do better to direct their administrative efforts at that which they really mean to deal with, which may be problems of interstate rivalry and competition for the Connecticut River.

While we concede and endorse the concept of regulation of the use of water, we feel that the proper logical economical and reasonable approach would be to create a council similar to that which was created by this legislature to study the problems of water company land.

The council should be made up of representatives of all sectors involved in the matter of the protection of water quality and quantity. ..public and private.. who would review this issue and the legislative proposals and report upon it to this committee.

Thank You

STATEMENT OF THE CONNECTICUT WATER WORKS ASSOCIATION

CONCERNING RAISED COMMITTEE BILL NO. 5883

"AN ACT CONCERNING WATER DIVERSION"

902

The Connecticut Water Works Association (CWWA) is an association of water supply utilities serving Connecticut. Membership in the Association is open to all Connecticut water utilities. There are currently 23 publicly-owned and 20 investor-owned water utilities in the Association. Combined, these water systems serve more than 500,000 customers or a population of approximately 2-1/4 million people located throughout the State. As purveyors of public drinking water, members of the Association have an obligation to provide sufficient quantities of high quality water at reasonable cost to the consumers.

We are making this statement expressing our concern over the provisions of the proposed Act Concerning Water Diversion. It is the Association's position that prior to implementation of legislation that would require permits for diversions, a study should be undertaken which would result in a state-wide water supply plan. This study should have the input of water supply professionals with priority given to diversions for drinking water supply, and should be performed by qualified consultants or perhaps the Corps of Engineers. We are concerned that the proposed Act is a classic but unfortunate

example of overreaction to one or two specific problems in isolated areas of the State. The Act completely ignores the fact that the majority of the water supply industry in Connecticut has provided efficient service to its customers and, has engaged in proper planning for future supplies. We see no need to overburden our customers with the enormous cost of accommodating the many provisions of this bill prior to determining the need for such regulation. We emphasize that this bill is premature. The State should first determine the possibilities of coordinating our existing water supplies, determining where they should be directed and how transfers can take place, before a bill of this magnitude is adopted. If there are presently a few isolated problems, then these should be dealt with through the existing regulatory agencies until a state-wide water supply plan can be adopted.

In addition, we offer the following specific comments on other aspects of the bill:

1. The water supply industry in the State of Connecticut actively supports the concept that water is a precious natural resource and should never be wasted, but drastic conservation beyond the point of convenience is unnecessary. All references to mandatory conservation should be deleted from the bill. One of Connecticut's greatest assets for promotion of industrial development is its abundant

and relatively inexpensive water supply. The conservation requirements in the bill infer otherwise. Mandatory conservation in Connecticut should only be implemented in emergency situations, not as a replacement for developing additional needed sources of supply.

2. Existing water supply diversions should be exempt from the permit process or be granted permanent permits.
3. New water supply diversions should be given special consideration and not require the preparation of full scale impact statements, but should be granted permits on the basis of the state-wide water supply master plan suggested earlier.
4. Approval of a diversion should not be subject to a 25-year renewal requirement, but instead should be permanent.

We recognize the State's concern and role in proper resource protection planning. We recommend that a task force, composed of representatives from state agencies and water utilities, review and evaluate the progress and results of the previously recommended comprehensive water supply study. In the absence of such a study, a sweeping Act of this type concerning water diversions is ill-advised. We must first coordinate the overall water resource data available and then identify the specific problem areas, before adopting a "solution" to a "problem" that does not, in fact, exist.

In conclusion, the Association feels that the present regulations for diversions can be made to cover existing problem situations, and that the completion of the State's Water Plan should be advanced as rapidly as possible to put the allocation of Connecticut's water on as reasonable, conflict-avoiding and economical basis as possible.

905

3/11/82



- March 11, 1982 - 906

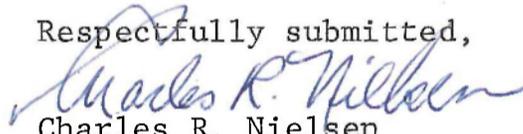
To the Members of the Environment Committee:

It is the opinion of the Scantic River Watershed Association that Raised Committee Bill No. 5883 is long over-due and is vitally essential to the proper future management of the water resources of Connecticut.

We do, however, feel that Sub-section (a) of Section #8 is too vague in the matter of hearing continuances and the procedure by which notice would be given of time, date and location of additional hearings, and would suggest that the requirements of Sub-section (e) of Section #7 should be made to apply in each such instance.

Because we feel Raised Committee Bill No. 5883 to be absolutely basic to the future administration of our water resources, we respectfully request this Committee to move its implementation during this current legislative session.

Respectfully submitted,

  
Charles R. Nielsen  
President

CRN:cpm

*Submitted by Bruce Spillay*

THE METROPOLITAN DISTRICT

555 MAIN STREET - P.O. BOX 800

HARTFORD, CT 06101

March 11, 1982

I - 907

STATEMENT BY THE METROPOLITAN DISTRICT RE: RAISED COMMITTEE BILL NO. 5883

"An Act Concerning Water Diversion"

Presented to the Committee on Environment of 1982 Session of the General Assembly on March 11, 1982.

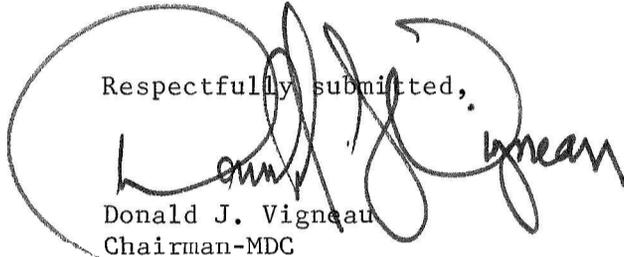
As a public agency responsible for providing water service to nearly 400,000 people in the Hartford area, the Metropolitan District (MDC) supports efforts to effectively manage water use, including efforts to develop meaningful and practical State diversion legislation. The District, therefore, supports the intent of Raised Committee Bill 5883, "An Act Concerning Water Diversion," in that its statement of purpose is consistent with the District's traditional approach to prudent planning, management and utilization of its water supplies.

However, for several reasons the MDC cannot support Committee Bill 5883 in its proposed form. First, the legislation is virtually limitless in the scope of authority it gives one State official — the Commissioner of the Department of Environmental Protection — in determining whether a diversion should be permitted. We are concerned that other agencies and parties with an important role in managing and monitoring water use are not an integral part of the permitting process. Second, the time frame, within which the permitting process would take place, is, for all intents and purposes, open-ended. In the bill's present form, therefore, a permit could be under consideration for years if, for any reason, the DEP were not in a position to make a final decision. Third, the proposed legislation lacks definitive criteria by which the DEP would determine whether the applicant's diversion plan was preferable to alternatives, and there is no clear recognition of priority uses of the waters of the state as part of the permit process. Finally, the legislation, as proposed, does not sufficiently recognize — as part of the decision-making process — investments that may have been made by an applicant prior to making application for a permit. We strongly believe that investments made to-date by applicants must be given serious consideration as part of the permit evaluation process.

As already stated, the MDC is not opposed to the basic purpose of Raised Committee Bill 5883; nor are we opposed to being subjected to a reasonable permitting process. In fact, over the last several weeks the District has been working closely with CRCOG staff and elected officials from several Farmington Valley towns to address problems with the proposed legislation; for the bill in its present form could have a serious impact on the private homeowner, the small farmer, small businessman and, obviously, the future economic development of the State.

In closing, let me stress on behalf of the District Board that the Metropolitan District's highest priority has been — is — and will always be to ensure that the people of the District are provided with safe and adequate supplies of drinking water. We also recognize — and have throughout our long history — that there are other important uses of the rivers of the State. To date, we at the MDC have done our part to help make these uses compatible with one another. The District is confident that the legislature, in its wisdom, will address the purpose of Committee Bill 5883 in a manner that will both accommodate the District's mandate to provide water and the important concerns and needs of others while eliminating the significant problems inherent in the proposed bill before you — a bill that is, at the very least, an over-reaction to a resolvable issue.

Respectfully submitted,

A large, stylized handwritten signature in black ink, appearing to read "Donald J. Vigneau". The signature is written over the typed name and title below it.

Donald J. Vigneau  
Chairman-MDC

LEAGUE OF WOMEN VOTERS  
WINDSOR, CONNECTICUT  
06095

909

STATEMENT

Environment Committee

March 11, 1982

The Windsor League of Women Voters offers strong support for the Raised Committee Bill number 5083, AN ACT CONCERNING WATER DIVERSION. Since the November 1981 MDC referendum question requesting appropriation of bonding for water diversion on the Farmington River, the League has become acutely aware of the need for such legislation.

Along with our national and state organization, we have long supported a regional long-range approach to water and land resources planning. Studies of alternatives, including the conservation alternative, and studies of environmental impact are imperative.

We support the citizen's right to know and believe that democratic government depends upon their informed and active participation. Adequate notice of proposed actions via publication, public meetings, and accessible records allows for this democratic process.

An area of concern lies with those bodies officially notified of the DEP hearing. We urge you to consider that along with notification of state and local parties, appropriate regional planning agencies, such as The Capitol Region Council of Governments and The Gateway Commission, be included.

After careful consideration of this bill, we, The Windsor League of Women Voters feel that the Environment Committee has appropriately addressed the areas of our concern. Please consider our recommendation to include regional representation and know that we support your efforts to regulate water diversion.

Thank you for allowing this opportunity to present this statement.

Chester R. Woodford  
Chairman and President  
Freda W. Read  
Secretary and Ass't Treasurer

Donald R. Carville  
Vice President and Treasurer  
Janet R. Carville  
Assistant Secretary

*C. F. Woodford & Son, Inc.* 910

Shade Tobacco  
Strawberries and Vegetables

276 NOD ROAD — AVON, CONNECTICUT 06001  
Telephone (203) 677-9552

March 11, 1982

Mr. Ronald A. Pfeffer, Executive Director  
Farmington River Watershed Association, Inc.  
Post Office Box 98  
Avon, Connecticut 06001

Dear Mr. Pfeffer:

RE: Connecticut Committee Bill No. 5883

Referring to your letter of March 4, we are most supportive of the proposed regulations outlined in this pending bill.

It is so important to consider what will occur if and when natural waters affecting us are disturbed or diverted.

As long-time farmers in Avon, we appreciate the advantages of living and farming so close to the Farmington River. If others are permitted to change the natural flow of this precious asset, we as well as so many others dependent upon this natural resource will be forced out of business.

Very truly yours,

C. F. WOODFORD & SON, INCORPORATED

*Donald R. Carville*

Donald R. Carville  
Vice President and Treasurer

j

STATEMENT OF THE  
SECOND TAXING DISTRICT WATER DEPARTMENT

regarding

911

AN ACT CONCERNING WATER DIVERSION

Raised Committee Bill No.5883

The Second Taxing District Water Department is a municipal (publicly owned) Water Department operated by the Second Taxing District, City of Norwalk. The department serves approximately 10,000 customers with a population of just under 40,000 persons.

Our department strongly supports the concept of State control over withdrawals and use of water and thus the basic concept put forth in the proposed bill. In a complex society with many competing uses the finite resource water must be allocated based on public need and policy with respect to both current and future uses and changes which may occur in public policy. Today in Connecticut many significant water resources are controlled solely by entities (both public and private) which gained control over the resources as much as 125 years ago by both legislative action and riparian doctrine and hold them essentially in perpetuity without regard to either current need or current public policy. The State must have some rational method of periodically reviewing the usage and allocation of these resources in light of both current and future policy.

The need for a State system of allocation of water resources both between competing uses and competing water utilities was clearly evident during the 1980-1981 dry spell in which certain water utilities experienced shortages in supply in some portions of Fairfield County, while others had an abundant supply. It is clear that the total amount of water needed to supply demand within the shortage period in Fairfield County was available. Unfortunately the geographical distribution as well as the legal control over the resource itself is not distributed with respect to the relative demand of all of the water utilities in question. This situation leads to companies (such as our) hoarding water

for its own consumers while refusing to go to conservation to aid other communities. 912

This situation is not an example of mismanagement of the various utilities involved but an example of prudent management by utilities which are required to provide adequate service for their own franchised area consumers by statute. In this particular situation the various utilities primary responsibility is not only to different bodies but they are responsible to different types of bodies such as their electorate or to their stockholders. As a water supply engineer I consider this situation intolerable, we must share this valuable resource.

A statewide system of resource allocation if properly designed and administered would go a long way in preventing this type of problem in the future. Considering that the 1980-1981 dry spell was relatively short the potential for severe problems during an extended dry spell is great.

Although we agree with the concept put forth in the bill we feel the following comments are necessary and appropriate:

1) The title "An Act Concerning Water Diversion" or the Sec.1 wording "The Connecticut Water Diversion Policy Act" not only is technically incorrect (since a water diversion is a very narrow technically defined principal in engineering which refers to the piping of surface water to a different river basin) but serves in hiding or confusing the actual thrust of the bill. The word "allocation" should be substituted for the word diversion.

2) The definitions and concept of "basin" and "interbasin" are so poorly defined that any movement of water in excess of the 25 gpm cited is an "interbasin" transfer requiring a very expensive "environment impact report". Even if the basins are defined by the numbered basins on the "Natural Drainage Basins in Connecticut" map of the Natural Resources Center a tremendous number of interbasin transfers, each requiring a "environmental impact report" are in existence today and would require an application. As an example our department

which is relatively small takes water from two basins and distributes it to five others. In the case of a large utility this number could be as many as 20 donor basins and 20 user basins each interacting in a most complex matrix. 913

3) Existing interbasin transfers should not require an "environmental impact report" since they will not change the status quo and should be considered the current environment. Any change in allocation of an existing interbasin transfer should require an "environmental impact report" to be completed by the party requesting the change in the status quo.

4) Public water supply must be assigned the number one priority by the act requiring all reasonable uses for public water supply be satisfied prior to the allocation of the resource to a competing use.

5) Conservation measures should not be required in areas where adequate supplies exist for all competing uses. Conservation cost money, which would be wasted if controls were needlessly applied.

6) The bill which requires water allocation does not go far enough in the allocation of resources. This bill does not eliminate or alter in any way riparian rights. If this bill is passed our industry will be saddled with both a State wide allocation and the need to settle riparian issues. Each alone is difficult to deal with, together they present an impenetrable barrier to additional public water supply. The State should move away from the riparian doctrine to one of the "highest and best use" allocation system as part of this bill. The waters of the State should belong to the State and be allocated solely by the State.

While supporting the concept of the proposed bill the Second Taxing District feels that a detailed study of the concept involved is necessary before the passage of the bill. Considering that many bills related to public water supply are before the legislature this session some of which address the institutions of the State which exercise control over the water industry, we feel all bills which relate to specific water supply issues be deferred until a detail conceptual study of public water supply in Connecticut be completed preferably by an independent consultant.

# Town of Waterford

921

200 Boston Post Road  
Waterford, Conn. 06385  
Water and Sewer Commission

March 10, 1982

To: Environment Committee

Subject: Raised Committee Bill No. 5883.

Town of Waterford, Water Pollution Control Authority Position on the Connecticut Water Diversion Act:

The Waterford Water Pollution Control Authority, at its meeting of March 8, 1982, adopted the following resolution:

While the concept of a Water Diversion Policy Act has merit for large water bodies in certain circumstances, this act as written is unacceptable for the following reasons:

1. Sec. 3-3 The definition of diversion is extremely broad. As written, a permit would even be required for construction projects with stream crossings involving temporary diversions. This definition should be changed to distinguish between temporary and permanent diversions. We also recommend that it be quantified such that diversions of less than a stated flow be excluded.
2. Sec 5 The information required in the permit application is extremely detailed and complex. The preparation of this document will require the use of outside consultants. This cost will be a financial hardship to many towns and agencies, as well as an additional layer of "red tape" and an additional time constraint. A report of this magnitude should be required only for the largest diversions. We suggest a flexible set of criteria which could be adjusted according to the scope of each project.
3. Sec 5-10 Will an environmental impact report be required for interbasin transfers within the same town?
4. Sec 9-d A 25-year permit is totally unreasonable. There is no way a water utility can properly plan or economically justify the installation of a water system designed for 100 years when the possibility exists that in 25 years the supply

will be cut off. Once a permit is granted it should be permanent, especially in the case where the diversion is for human consumption and large sums of money are expended to install plant and equipment.

5. Sec. 13-b The following classes of exemptions should be added:
  - a) Reservoirs or wells located within a municipality, when the water is to be used within that municipality;
  - b) Streams where flow does not exceed a predetermined rate.
  - c) Any diversion which is less than a specified percentage of the stream flow or aquifer yield.
6. Water utilities are currently regulated by the PUCA, EPA, State Health Department, and local government. In addition, any construction involving stream or wetlands is regulated by the Army Corps of Engineers, the State DEP and various Inland/Wetland agencies. Therefore, we recommend that these concerns be incorporated into an existing review process rather than developing a new act, a new set of regulations and a new layer of review.

Summary:

While the purpose of this act is admirable, the wholesale subjugation of all towns to all of its requirements, with the attendant increase in engineering, administrative, and legal costs, makes it completely intolerable as written.

7

City of New London Water and Water Pollution Control Authority Position  
on The Connecticut Water Diversion Policy Act of 1982 (Section 1 thru  
Section 17 inclusive plus the Statement of Purpose.)

923

Resolved-:

That the Water and Water Pollution Control Authority of the City of New London is unalterably opposed to the adoption of the Connecticut Water Diversion Policy Act of 1982 as presented to the Connecticut Section of the American Water Works Association on February 13, 1982 at Valle's West Haven, Connecticut by an official from the Department of Environmental Protection, State of Connecticut for the following reasons:

1. The City's water system is presently regulated by the State Health Department, the Public Utility Control Authority, the former U.S. Public Health Agency now known as the Environmental Protection Agency, the New London Water and Water Pollution Control Authority, the New London City Council and to some extent the Southeastern Connecticut Water Authority. Therefore, we find that the imposition of additional regulations or regulatory agencies is not necessarily in the best interest of the City of New London.
2. The City of New London holds legal title to land, water and stream rights in four nearby towns, These were purchased to construct man made supply reservoirs which provide the City of New London, the Town of Waterford and a single large consumer in Montville with a supply of pure and healthful water. This Act, as presently written, would negate our purchased rights and require the City to go back in time to 1872 and document and justify each purchase and Water Supply Plan from 1872 to the present and then to apply for the required permits under the Act.

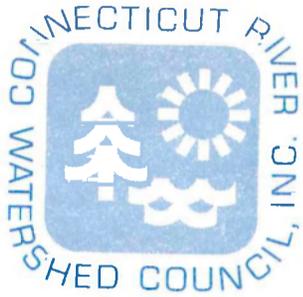
3. All permits are subject to review at a maximum of 25 year intervals. Since this review could result in denial of renewal, the issuance of a permit is only a 25 year guarantee. How can any utility justify the economics associated with construction of any type of a water supply facility for a 25 year period only? It cannot. Water Supply Systems are built on 100 years minimum life expectancies.
  
4. The cost of preparing the permit application for existing supply reservoirs would be at the expense of our consumers who are facing yearly rate increases in water and sewer use charges due to inflation. In addition our consumers are faced with the cost of constructing a new water filtration plant which must come out of the water rates. The imposition of these additional costs upon our consumer is a needless waste of money and accomplishes nothing except a technical compliance with the Act.
  
5. We consider this Act a punitive measure and the direct result of an attempt by another water company to force a diversion with apparently little regard for the rights of others. It is a gross overreaction to the detriment of most of the citizens of this state and certainly to all the customers of the City of New London water system. Since the beginning of our water system in 1872, the City of New London has never made a policy of securing land and water rights by condemnation or by other extreme means at the expense of our neighbors. Our policy is to work within the system and to acquire land and rights by negotiation. We should not be punished for the failures or lack of sensitivity of other water companies.

(3)

6. The City of New London is bound by Intra Local Agreement ~~925~~<sup>9251</sup> to provide water to the Town of Waterford. This Act will complicate our efforts to furnish additional water to the town in the near future. A strict and total enforcement of the philosophy of this Act will place an economic strangle hold on land poor communities such as New London and water poor communities such as Waterford. None of the water used in the City of New London is generated in New London. If all water currently identified in Waterford, regardless of quality, is developed, it would barely meet present needs and provide no excess capacity for substantial future expansion within Waterford. The concept of preserving the water rights within a basin for use by the citizens of that basin is out of touch with economic reality and is without legal precedent. Even such monumental water management schemes as the Colorado River, Hudson River, Rhine River, and White Mountain Rivers (of Australia) have recognized the need for diversion of water to customers outside the basin area. Diversions should be accepted as normal and desirable --- not treated as wrongful until otherwise proven beyond a shadow of doubt.

7. We strongly object to language of the Act which lists the rights of fish and wildlife in superposition to domestic rights. It is a strange set of priorities which favor fish and wildlife use more than human use.

Dedicated to the  
Proper Use of Our  
Natural Resources



CONNECTICUT RIVER  
WATERSHED COUNCIL, INC.

926

125 Combs Road Easthampton, Mass. 01027 Telephone (413) 584-0057

March 11, 1982

Committee on Environment  
General Assembly, State of Connecticut  
State House  
Hartford, CT

RE: Raised Committee Bill No. 5883  
An Act Concerning Water Diversion

The Connecticut River Watershed Council, Inc. wishes to register its support for Bill No. 5883 - "An Act Concerning Water Diversion."

The Connecticut River Watershed Council is a four-state private, non-profit, organization dedicated to the proper use of the natural resources of the Connecticut River valley.

The Council has long had a published policy supporting the principle of comprehensive regional planning for the conservation and utilization of water resources as opposed to case by case action. We believe that a concerted effort toward conservation of existing supplies and judicious, responsible, long-range regional planning for equitable distribution of excess water is mandatory for the future of our citizens.

Bill No. 5883 provides the state with that comprehensive regulation and management of its water resources and ensures that the state implements a consistent policy with regard to interstate and intrastate diversions. The Council subscribes to its provisions. Water is a primary resource of this state, as it is for the other three states within the Connecticut River watershed. We are charged by our charter to work for the wise development and use of that resource. We urge adoption of Bill No. 5883.

John M. Crosman,  
President

JMC/dk

MR. BUCKLEY: (continued)

will be the review of existing legislation, a review of authority. There is so much fragmentation of authority presently existing. A review of present policy with respect to usage, not quality, but usage of particular streams, bodies of water. And a review of the management level within state government.

A last note I would add to proposed legislation to add to the 400 existing pieces of legislation, would be a mistake. The diversion policy itself, Bill 5883, I believe, is an example of this. The reason for the development of the diversion policy is that there was a water shortage. I don't believe the rainfall, I don't believe there was a water shortage. Perhaps there was a management shortage or a management drought. Many of the existing statutes are not enforced. There are regulations that require annual testing of carcinogenic substances in your drinking water. I believe if you'll check with the Department of Health Services, it's been quite some time since that's been done.

I may seem I'm picking on the Department of Health Services, that's the one I know the best, okay. I would propose that mandatorium be placed on water related legislation at th is time. I support the task force in its concept, Bill 5605, but I would urge that you consider representatives of the water industry and in fact, I would offer my assistance, having served on both sides of the fence, on that task force, if you choose so.

And I'd like to thank you at this time for the opportunity of testifying here before you.

REP. BERTINUSON: Thank you very much, Mr. Buckley. This does seem to be the year of water in the Environment Committee at least. And we certainly will be calling on people like yourself who have a lot of expertise to offer. I agree with you that planning is definitely what we need to do now, planning and coordinating to find out what we have. Marty, did you have a question?

REP. SMITH: Bill, thank you for coming up. I just have a question. There has been, because of current state