

PA13-197

HB6441

Environment	196-199, 218-220, 251-258, 260-261, 268-270, 277-281, 383-384, 1411-1416, 1419-1429	44
House	7489-7522	34
Senate	4882-4890, 5043-5044	11
		89

H – 1171

**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
2013**

**VOL.56
PART 22
7261 – 7611**

Calendar.

SPEAKER SHARKEY:

This item will be tabled for the Calendar.

THE CLERK:

Mr. Speaker.

SPEAKER SHARKEY:

Yes. Excuse me, Mr. Clerk. And I believe the Calendar is still on -- on your desk so I --

THE CLERK:

Yes, Mr. Speaker. The Calendar for Thursday, May 20 -- or May 30, 2013 is on the Clerk's Desk.

SPEAKER SHARKEY:

Thank you, Sir. Are there any announcements or introductions. Any announcements or introductions? If not, it's a warm day outside today. We've got a lot of business do in this nice cool Chamber. Hopefully it will stay that way throughout the day but let's get down to it. Mr. Clerk, please call Calendar number 86.

THE CLERK:

Calendar number 86, favorable report of the joint standing Committee on Environment, substitute House Bill 6441, AN ACT CONCERNING THE DAM SAFETY PROGRAM.

SPEAKER SHARKEY:

Mr. Clerk, just so we're clear, that was not an epithet was it?

THE CLERK:

That's dam with only one M.

SPEAKER SHARKEY:

Thank you, Sir. Just to be clear.

Representative Gentile.

REP. GENTILE (104th):

Thank you. Good afternoon, Mr. Speaker.

SPEAKER SHARKEY:

Good afternoon, Madam.

REP. GENTILE (104th):

Mr. Speaker, I move for acceptance of the joint committee's favorable report and passage of the bill.

SPEAKER SHARKEY:

The question is on acceptance of the joint committee's favorable report and passage of the bill.

Will you remark, Madam?

REP. GENTILE (104th):

Thank you, Mr. Speaker. Mr. Speaker, there are currently approximately 5,500 dams in our State. And 3,000 of those dams -- or approximately 3,000 of those dams have been categorized by our Department of Environmental Protection as potentially hazardous

dams. And 72 percent of those dams are privately owned.

This bill makes some changes to the dam safety laws to dramatically improve dam safety here in Connecticut and make -- creates a type of dam owner stewardship and inspection approach which is consistent with many of our neighboring states. And with that, Mr. Speaker, the Clerk is in possession of an amendment, LCO number 7537. I ask that the Clerk please call and I be granted leave to summarize.

SPEAKER SHARKEY:

Will the Clerk please call LCO 7537 which will be designated House Amendment A. Thank you.

THE CLERK:

House Amendment A. LCO 7537 as introduced by Representative Gentile et al.

SPEAKER SHARKEY:

The Gentlewoman seeks leave of the Chamber to summarize. Is there objection? Seeing none, you may proceed with summarization, Madam.

REP. GENTILE (104th):

Thank you, Mr. Speaker. Mr. Speaker, basically this amendment makes some technical changes and some clarifications. But the important thing to note here

is that it -- it does set up a notification process and that the owner of any dam shall notify the Commissioner by registered mail of a transfer of ownership of any such dam and that notification must take place within ten days.

And then also the Commissioner shall notify the owner of any dam or similar structure in writing by certified mail again not later than January 15 of any particular year in which the inspection of a dam is due. Mr. Speaker, I urge adoption of the amendment.

SPEAKER SHARKEY:

You move adoption. The question before the Chamber is adoption of House Amendment A. Will you remark? Representative Shaban of the 135th.

REP. SHABAN (135th):

Thank you, Mr. Speaker. I stand in support of the amendment. There's been a substantial amount of work done on this bill to make it both fair and safe to the public. This -- these provisions contained in this amendment was a collaborative effort and a good revision so I urge adoption.

SPEAKER SHARKEY:

Thank you, Sir. Do you care to remark further on House Amendment A? If not, let me try your minds.

All those in favor of House Amendment A please signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER SHARKEY:

Those opposed, nay. The ayes have it. The amendment is adopted. Do you care to remark further on the bill as amended? Representative Gentile.

REP. GENTILE (104th):

Thank you, Mr. Speaker. And Mr. Speaker, with that I might move on. I believe the Clerk has a second amendment, LCO number 8103. Once again I ask that the Clerk please call and I be granted leave to summarize.

SPEAKER SHARKEY:

That damn cough. LCO -- will the Clerk please LCO 8103 which will be designated House Amendment B.

THE CLERK:

House Amendment B, LCO 8103 introduced by Representative Miner, Gentile et al.

SPEAKER SHARKEY:

The Gentlewoman seeks leave of the Chamber to summarize. Is there objection? Is there objection? Seeing none, please proceed with summarization, Madam.

REP. GENTILE (104th):

Thank you, Mr. Speaker. I'd also like to reiterate the words of my Ranking Member. Once again this has been a collaborative effort. A great deal of work has gone into this particular amendment and the bill itself. And the important thing to note about this amendment is this amendment establishes a prohibition on the use or application of methoprene or resmethrin in any storm drain or -- or conveyance for water within the coastal boundary section only.

There is one exception and that exception is for any particular municipality -- for actually one particular municipality that has a documented death, a human being has died from a documented case of West Nile virus. And Mr. Speaker, I urge adoption of the amendment. Mr. Speaker, I'm sorry. I believe I gave the wrong LCO number on that but it does the same thing.

SPEAKER SHARKEY:

Are you suggesting that LCO 8103 is not the right amendment?

REP. GENTILE (104th):

That is exactly what I'm suggesting, Mr. Speaker.

SPEAKER SHARKEY:

So you would ask that we withdraw your motion to adopt LCO -- what is now designated as House Amendment B.

REP. GENTILE (104th):

I would withdraw my motion, Mr. Speaker.

SPEAKER SHARKEY:

Is there objection to withdraw of the motion in favor of adopting House Amendment B? Is there objection? With no objection, that is withdrawn. You still have the floor, Madam.

REP. GENTILE (104th):

Thank you, Mr. Speaker. And I apologize for that. There's been so many adoptions -- amendments floating around here. The correct LCO number would be 8118. I would ask that the Clerk please call that. It is essentially the same amendment as I previously described and I would urge adoption.

SPEAKER SHARKEY:

Well let's call the amendment first, Madam, and then you can move adoption. Will the Clerk please call LCO 8118 which will be designated House Amendment C.

THE CLERK:

House Amendment C, LCO 8118 introduced by

Representative Miner and Gentile et al.

SPEAKER SHARKEY:

The Gentlewoman seeks leave of the Chamber to summarize House Amendment C. Is there objection? Is there objection? Seeing none, you may proceed with summarization, Madam.

REP. GENTILE (104th):

Thank you, Mr. Speaker. Once again the amendment does essentially the same thing as I had previously mentioned. And I would urge adoption. I move for adoption.

SPEAKER SHARKEY:

Thank you, Madam. The question before the Chamber is adoption of House Amendment C. Is there -- would you care to comment? Representative Carter, of the 2nd District.

REP. CARTER (2nd):

Hold on it's jammed.

SPEAKER SHARKEY:

I hate it when that happens.

REP. CARTER (2nd):

There you go. Thank you very much. Good morning, Mr. Speaker. Appreciate it. Ladies and gentlemen, I rise in strong opposition to this

amendment. You know last -- we've considered this before with respect to banning methoprene. One of the things that's very effective in killing mosquitoes in their larvae stage. And we've been worried that they might affect lobsters in the Sound.

Now what we've talked about the science over and over again but the problem is the science to date is very inconclusive. The one thing we do know is that methoprene can affect lobsters in large amounts. There's no question about that. But in the long run it's never been proven that the amounts necessary can be found in Long Island Sound.

In fact a number of years ago we had a study done in Connecticut by one of our own at UCONN which said they think it was plastics in the water that was causing lobster die off. So that's an issue. On top of it we're undergoing our own studies right now which are due to be done at the end of the summer. They're taking a more broad look at the lobster die off in the Sound to see if methoprene or resthmethin -- if I said that correctly, could be the culprit.

I think it's incredibly premature for us to go out and take away a tool that people use that's very effective, very cost effective to kill mosquitoes.

Now the -- the part of this -- this amendment that I almost object to the most is this -- this notion that it's okay to do a carve out for somebody who's had a death from West Nile.

Now think about that for a second. We're out there trying to use something like methoprene -- which by the way, if it's ingested by people it's nontoxic. But we're going to say no, no, no, it's okay if you've already had somebody die off -- die from West Nile virus. You know to me that -- that just makes no sense whatsoever that if we're going to do a policy we do a policy.

We don't turn around and say well if you've had somebody die already we're not going to -- we're not going to make it apply to you. You know folks, if we're in the business of -- of trying to keep our constituents safe then let's do that. To date we know that methoprene is a tool that works. We don't have anything conclusive that it's affecting what's happening in the Sound.

And you know what, I understand the folks who are behind this and -- and they look at this as their culprit. But guess what it doesn't pass muster in the science. We've got a study that's ongoing. Let's

give it a chance and look at it next year. And -- and my commitment would be to anybody in this Chamber if it's ever found in this current study that it's methoprene that's causing the problem with our lobsters I'd be the first one to cosponsor a bill. I'd be the first one onboard. But until we do that I think we need to watch these -- these kinds of bills very closely.

And again if we're already admitting somebody's - - who uses methoprene, they've had a death from West Nile we're going to let them keep using methoprene. That should say something folks. That should really say something. So you know I urge everybody to pay very close attention to this amendment not to put this on the dam safety bill because this is not a good amendment and I urge rejection. And Mr. Speaker, I ask that when the vote be taken it be taken by roll.

SPEAKER SHARKEY:

The question before the Chamber is a roll call vote. All those in favor of a roll call vote please signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER SHARKEY:

Let me try that again because I'm not sure that the requisite 20 percent has been met based upon who is in the Chamber at this time. Can we call for that vote again? All those in favor of a roll call vote please signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER SHARKEY:

The requisite 20 percent has been met. When the -- when the vote is taken it will be taken by roll. Representative Carter, you still have the floor.

REP. CARTER (2nd):

That was the end of my statement, Mr. Speaker. Thank you.

SPEAKER SHARKEY:

Thank you, Sir. Would you care to remark further on House Amendment C? Representative Miner of the 66th.

REP. MINER (66th):

Thank you, Mr. Speaker. Mr. Speaker, I'd like to try and clarify a few things if I might in regard to this amendment. First of all at the time this bill passed the Chamber last year the only substance that was restricted was methoprene. And the DEP at that

time had begun a study which was to accumulate lobsters from Long Island Sound and trying to determine whether or not methoprene had bioaccumulated in the lobsters. I believe the industry had claimed that there's no way to get methoprene from a catch basin, into Long Island Sound and into these animals. And in fact, Mr. Speaker, last year the agency confirmed not only -- not only methoprene in some number of lobsters in that test but also was resmethrin which was an absolute surprise I think to the agency and others.

So that was last year. This year, Mr. Speaker, the agency took upon itself to have a more expansive collection of animals all across Long Island Sound and all across New England so that we'll be able to look at whether or not these substances bioaccumulate not only in Long Island Sound but in other areas where they have restricted the use of these substances.

Mr. Speaker, what this bill -- what this amendment does is puts in place a trigger mechanism of sorts and that is that you can't load catch basins with methoprene and you can't spray resmethrin unless you have a known finding of a mosquito with West Nile virus. So that's the biggest change in this bill from

current practice. So rather than putting something in the catch basin to try and restrict growth of these insects which are in the same family as lobster this says let's find out whether we have a problem first. What it does is within the tidal influence zone about 1,000 feet of Long Island Sound that is where this mechanism would take place.

Throughout the rest of Connecticut where it is highly unlikely that you would end up with any residual going into Long Island Sound and then affecting these animals there is no such restriction. In section C there is also -- if the Chamber would look at that section, there is a process in place by which if it has been determined that West Nile virus in mosquitoes is in Connecticut none of this applies.

So it's not only the municipality that has been carved out so to speak, it would be any municipality once it's been proven that that infectious disease is here and for that reason I think there still is great public health security built into this amendment but I think there's some caution in terms of what we put into the water in the State of Connecticut just as they have done in other states across New England. And I would ask for the Chamber's support.

SPEAKER SHARKEY:

Thank you, Sir. Do you care to remark further on House Amendment C? Representative Phil Miller of the 36th.

REP. MILLER (36th):

Thank you, Mr. Speaker. I also rise in opposition to this amendment. I've been looking at this for several years and I want to just say a few things about it as I understand it to be. First there's no one who really has a good handle on shellfish biology.

It's a very difficult subject to truly analyze and to be able to predict. In some years when we have -- for example in the last several years we've had some really good runs of blue crab in the lower Connecticut River and all throughout Long Island Sound and many of the other rivers. It's a very difficult thing to predict.

Many of you are aware that our lobster fisheries were making a very good return in the 90s and then we had a die off and it was thought to be coincidental that it followed a couple of big applications of methoprene and other mosquito repellents following some public health concerns with equine encephalitis

and also West Nile. I'd like to also point out that our historical data particularly on shellfish is very complete.

The State does not have very good records. Some records are sequestered in some other facilities, far in other parts of the State. And so there's a lot that we still don't understand. I appreciate that the distinguished Representative from Bethel mentioned that -- the truth that we have a study that's being conducted right now and I'd like to see the results of that study.

And finally I'd just like to say that I'm someone who's a very strong environmentalist and I'm -- I really believe that we need to concentrate on clean air and clean water for the future. But we also have to sometimes balance our wishes to be good environmental stewards with some public health concerns. When I was previously a first selectman of a small town we had to react because of some deaths for -- from equine encephalitis for example.

And we had to quickly evaluate with our public health officials, both our health directors locally as well as the State for guidance on what we could do to try to minimize the risk in many coastal and

subcoastal towns. And -- and my town and several towns, we picked a larval fungicide to use on our catch basins that contained bacillus thuringiensis serovar israelensis or Bti which we thought was about as benign a -- a prospect as we could find and we were concerned because we had even heard back then that methoprene we thought might have a contributing effect toward the lobster die off.

I've since come to also believe that because we are so free in the use our chemicals particularly in the lawn industries I believe that when we have unusual precipitation events a lot of the inland water gets flushed into Long Island Sound which is -- mostly enriches it but we also have sometimes a toxic soup of chemicals which is unleashed and that's why we've recently passed bills such as the sewage spill right to know to give ourselves some protection when we have such conditions.

And also our notification system by the agency has been improved quite a bit which is very much appreciative. I want to just express the similar concerns from the Representative from Bethel that I'd like to see the study complete and then let's evaluate it and if we have to let's pass something next year

that would ban methoprene if we're really sure that that's a problem.

But in the meantime I would urge that we oppose this amendment because the underlying bill is an excellent bill but I'm concerned that this amendment is a little too conclusive when it's something that we should be a little inconclusive with. Thank you, Mr. Speaker.

SPEAKER SHARKEY:

Thank you, Sir. Do you care to remark further on House Amendment C? Representative Larry Miller.

REP. MILLER (122nd):

Thank you, Mr. Speaker, and good afternoon. I rise in strong support of the amendment. And I can respect the comments made by Representative Carter and my cousin, Phil Miller. I've been lobbied heavily by a lot of lobstermen who make their living on Long Island Sound. And they feel that this is something that's needed so they can continue to earn a living from Long Island Sound.

One problem I have is what do we do with the State of New York who are never working together with Connecticut. They sometimes overspray and the fact of the matter is not only New York but we get stuff down

from Vermont and New Hampshire and a part of Maine up towards the Canadian border.

There's a lot of stuff that comes down, we don't even know what's in the -- in the -- in their discharge into the -- rivers that go into Long Island Sound. But I think this is a first step to start trying to clean up Long Island Sound with some of the stuff that's in there and I think the lobstermen deserve to have us protect their environment where they earn a living.

So I urge the Assembly to vote for this. It's a good amendment and I think it's a start of maybe we can clean up Long Island Sound. Thank you, Mr. Speaker.

SPEAKER SHARKEY:

Thank you, Sir. Care to remark further on House Amendment C? Representative Wright of the 41st.

REP. WRIGHT (41st):

Thank you, Mr. Speaker. Good morning. Good afternoon. I rise in strong support of this amendment. The purpose is to help restore Long Island Sound's lobster population and our traditional lobster industry by restricting the use and application of -- of the chemical pesticides methoprene and -- and

resmethrin in -- in -- in coastal areas.

As we all know the catastrophic lobster die off in the fall of 1999 corresponded with the application of a pesticide cocktail that included these compounds to the western Long Island Sound watershed area during that summer for the control of mosquitoes that carried West Nile virus which was then a new and emerging disease at the time. Following that application the -- the lobster landings dropped the following year from -- from 3.7 million pounds to -- by two -- two million pounds to about 1.7 million pounds in that brief year period and have now continued in a steady decline to 440,000 in 2009 and a historic low of 142,000 in 2011.

This raises concerns about the relationship between these insecticides and the toxic effects on lobsters. Laboratory studies and research reports suggest that the effects of exposures to lobsters to these pesticides are a factor contributing to the decline.

And last year using new techniques that allowed for the detection of these compounds at lower levels than formerly detectable in testing for the presence in -- in lobsters samples collected from the wild in Long Island Sound showed the bioaccumulation of

methoprene and resmethrin in various tissues. And -- and these results have prompted the Department to undertake a broader field study which is currently in progress to further assess the extent and response of lobsters to these chemical agents on balance based on our understanding derived both from the laboratory research and field studies to date the current science, I believe supports a restriction.

And this amendment strikes a balance with mosquito control to protect the public health and goes a long way to accomplish the benefits of improving the environment, helping to restore the shore's lobster fishery and ensuring that the public health will be protected against mosquito born disease and I -- I strongly urge adoption. Thank you, Mr. Speaker.

SPEAKER SHARKEY:

Thank you, Madam. Would you care to remark further on House Amendment C? Representative Carter of the 2nd District.

REP. CARTER (2nd):

Thank you very much. I recognize I'm up for a second time. I had one question, through you, Mr. Speaker, to the proponent of the amendment.

SPEAKER SHARKEY: -

Please proceed, Sir.

REP. CARTER (2nd):

Through you, Mr. Speaker. The -- the trigger mechanism that -- that is going to exist in this bill, basically the way I understand it and if you confirm that if we find a mosquito that has West Nile virus then all of a sudden we're allowed to use methoprene in that area? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Gentile, do you care to respond?

REP. GENTILE (104th):

Through you, Mr. Speaker. That would be based on the evaluation. It would have to be documented.

SPEAKER SHARKEY:

Representative Carter.

REP. CARTER (2nd):

Through you, Mr. Speaker. Who is it who tests those mosquitos and how -- how frequently? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Gentile.

REP. GENTILE (104th):

I'm sorry, Mr. Speaker. I did not hear. Could he repeat the question?

SPEAKER SHARKEY:

Representative Carter, could you repeat your question.

REP. CARTER (2nd):

Yes, Sir. Through you, Mr. Speaker. Who tests mosquitoes for West Nile virus and how frequently are those tests performed? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Gentile.

REP. GENTILE (104th):

That would be the Commissioner of Department of -
- of Energy and Environmental Protection in
coordination with Department of Public Health and the
local health district.

SPEAKER SHARKEY:

Representative Carter.

REP. CARTER (2nd):

Thank you very much, Mr. Speaker. And I -- I
thank the good Gentlelady for her answers. You know
when the -- when the trigger mechanism came up in the
debate I wanted to make sure I addressed that because
it seems to me a little futile to think that if we
find mosquitoes that have West Nile virus then we can
turn around and say we're going to use something to --

to kill them later or then we're going to give the carve out for methoprene.

I'd also like to mention the fact that there are plenty of studies on both sides of the issue right now. In fact during lobster die off of 1999 when this started it was widely known that the pesticides had been used before and after in states like New York. One of our colleagues mentioned that in New York you know they currently use methoprene.

A lot of the researchers back at that time realized that they thought it was water temperature that was the issue because lobsters had been exposed to water temperature above 68 degrees which is pretty much their threshold, for about two months. Now ladies and gentlemen at this time the science is not conclusive. We're making a decision here based on something that we know very little about. This has been going on since 1999.

So I would hate to think that we're going to go out and make a decision like this for the wrong culprit. Why don't we wait until our study is finished here at the end of the year and then we make our decision. I think that's prudent. I think it's reasonable before we turn around and put our own --

our own folks in this State at risk of West Nile virus. We've already acknowledged that we're going to turn around and carve out one population because of the risk of West Nile virus. I don't know what makes them deserve it more than the folks in my district but I think -- I think that's something we need to think about. Mr. Speaker, I urge rejection of the amendment. Thank you.

SPEAKER SHARKEY:

Thank you, Sir. Do you care to remark further on House Amendment C? Representative Giegler.

REP. GIEGLER (138th):

Oh, sorry. No.

SPEAKER SHARKEY:

Okay. Thank you, Madam. On House Amendment C? Representative Vicino of the 35th. You have the floor, Sir.

REP. VICINO (35th):

Can you get this thing working? I'd like to -- I'd like to support this amendment. Being that I live near the shoreline and there is direct, distinctive after 1999 of the overuse of methoprene along with some of the other things I've heard in the room as far as temperature, as far as the food sourced to the

lobsters.

The methoprene is all part of the destruction of our lobster population. And to ban the use of this is a step forward and improving our lobster industry in the State. At one time you could go down to the local docks in my community and there was a steady source of lobstermen. At this point it's pretty much left the area. We need to do whatever we can to bring back this industry to our State. At this point we're at a situation where the Sound, the temperature is starting to raise. We can't do anything about the temperature but if we could stop the use of this chemical this a step for the future to bring back this industry.

Thank you.

SPEAKER SHARKEY:

Thank you, Sir. Do you care to remark further on House Amendment C? If not, staff and guests to the well of the House. Members take your seats. The machine will be opened.

THE CLERK:

The House of Representatives is voting by roll.

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

SPEAKER SHARKEY:

Have all the members voted? Have all the members voted? If all the members have voted will members please check the board to make sure you're proper -- that your vote is properly cast. If all the members have voted the machine will be locked and the Clerk will take a tally. The Clerk please announce the tally.

THE CLERK:

Substitute House Bill 6441, House C.

Total Number Voting 138

Necessary for Adoption 70

Those voting aye 110

Those voting nay 28

Absent and not voting 12

SPEAKER SHARKEY:

The amendment passes. Would you care to remark further on the bill as amended? Representative Gentile.

REP. GENTILE (104th):

Thank you, Mr. Speaker. And for the last time, the Clerk has an amendment, LCO 8086. I ask that the Clerk please call and I be granted leave to summarize.

SPEAKER SHARKEY:

Will the Clerk please call LCO 8086 which will be

designated House Amendment D.

THE CLERK:

House Amendment D, LCO 8086 introduced by
Representative Gentile and Dillon et al.

SPEAKER SHARKEY:

The Gentlewoman seeks leave of the Chamber to summarize. Is there objection? Is there objection? You may proceed with summarization, Madam.

REP. GENTILE (104th):

Thank you, Mr. Speaker. Mr. Speaker, basically what this amendment does it requires DEEP in coordination with the Department of Public Health and the local health department to do outreach and education to determine what is needed to eliminate mosquito breeding and most particularly in instances where standing water is posing a public health and a risk to human life. Mr. Speaker, I urge adoption. I move for adoption.

SPEAKER SHARKEY:

Thank you, Madam. The question before the Chamber is adoption of House Amendment D. Will you remark? Representative Carter, on House Amendment D?

REP. CARTER (2nd):

Thank you, Mr. Speaker. I guess I'll have to

rise in strong support of this amendment. I mean obviously now that you know we -- we need to make sure that folks in our communities are safe from West Nile virus I think it makes a lot of sense to spend extra time looking for it. So I rise in support of this amendment. Thank you, Mr. Speaker.

SPEAKER SHARKEY:

Thank you, Sir. Would you care to remark further on House Amendment D? Representative Dillon of the 92nd.

REP. DILLON (92nd):

Thank you very much, Mr. Speaker. I also rise in support of the amendment. The epidemiology of West Nile virus is a little bit different from -- from equine encephalitis. The victim of equine encephalitis might well be a -- a light male of a certain age and income on a golf course and there's a 50 percent fatality rate.

When it comes to West Nile it's very frequently asymptomatic until you get encephalitis. Any person of color who has diabetes is at particular risk which describes a former neighbor and constituent of mine. And so I really appreciate this amendment because we have to keep the public education going. Thank you.

SPEAKER SHARKEY:

Thank you, Madam. Would you care to remark further on House Amendment D? Representative Larry Miller.

REP. MILLER (122nd):

Thank you, Mr. Speaker. I rise in support of the amendment. And from what I read it -- it probably only affects about four or five communities. So can I ask the proponent if -- if I am correct? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Miller, were you asking a question? I'm sorry.

REP. MILLER (122nd):

Thank you, Mr. Speaker. And to the proponent of the amendment the 100,000 population would only fit about five or six communities in the State eligible. Is that correct?

SPEAKER SHARKEY:

Representative Gentile.

REP. GENTILE (104th):

Thank you, Mr. Speaker. Through you, it is extremely limited. That is correct. Very, very limited.

SPEAKER SHARKEY:

Representative Miller.

REP. MILLER (122nd):

Thank you for your answers. And thank you, Mr. Speaker.

SPEAKER SHARKEY:

Thank you, Sir. Would you care to remark further on House Amendment D? If not, let me try your minds. All those in favor of House Amendment D please signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER SHARKEY:

Those opposed, nay. The ayes have it. The amendment is adopted. Would you care to remark further on the bill as amended? Do you care to remark further on the bill as amended? Representative Carter.

REP. CARTER (2nd):

Thank you very much, Mr. Speaker. You know ladies and gentlemen as we've gone through this discussion with this dam safety bill you know it's been interesting to me because we started out with what I thought was a pretty benign bill, does good

things. Unfortunately because of the additions and what we've done I see a real safety issue for my constituents. I think by -- by using this as a vehicle to -- to do something to soon with respect to banning methoprene really made it a bad bill.

I know that we have just done something you know in addition that says okay well we'll look more -- we'll look more closely for West Nile virus. I get that. And I think that was -- was smart at least to try to mitigate the risk. But at the end of the day we just took a bill that I thought was a good bill and we put something on it that I think could have a huge ramification to the safety of our constituents.

Now I don't know about you folks but it worries me about the outbreak of West Nile -- West Nile virus and it makes no sense to me that we're going to wait until we find a mosquito that has it, then to carve out and say oh, it's okay for you to use methoprene. And I think the fact that we did it inconsistently by allowing one of our municipalities to do that made no sense.

So ladies and gentlemen here's another opportunity where we had a good bill, we made it bad. So I will not be supporting this bill and I would urge

my colleagues not to support it either. Thank you,
Mr. Speaker.

SPEAKER SHARKEY:

Thank you, Sir. Do you care to remark further on
the bill as amended? Do you care to remark further on
the bill as amended? If not, staff and guests to the
well of the House. Members take your seats. The
machine will be opened.

THE CLERK:

The House of Representatives is voting by roll.

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

SPEAKER SHARKEY:

Have all the members voted? If all the members
voted will the members please check the board to make
sure your vote is properly cast. If all the members
have voted the machine will be locked and the Clerk
will take a tally. Will the Clerk please announce the
tally.

THE CLERK:

Mr. Speaker, substitute House Bill 6441 as
amended by House A, C and D.

Total Number Voting	141
Necessary for Adoption	71

Those voting aye 140

Those voting nay 1

Absent and not voting 9

SPEAKER SHARKEY:

The bill as amended passes. Will the Clerk
please call Calendar 270

THE CLERK:

Mr. Speaker, Calendar number 270 on page 43,
favorable report of the joint standing Committee on
Finance, Revenue and Bonding, substitute House Bill
6374, AN ACT CONCERNING COORDINATED LONG TERM

DISABILITY RELIEF AND RECOVERY.

SPEAKER SHARKEY:

Distinguished Chairman of the Public Safety
Committee, Representative Dargan, you have the floor,
Sir.

REP. DARGAN (115th):

Thank you very much, Mr. Speaker. I move
acceptance of the joint committee's favorable report
and passage of the bill.

SPEAKER SHARKEY:

The question is on acceptance of the joint
committee's favorable report and passage of the bill.
Will you remark?

S - 667

**CONNECTICUT
GENERAL ASSEMBLY
SENATE**

**PROCEEDINGS
2013**

**VOL. 56
PART 16
4803 - 5160**

rgd/gbr
SENATE

80
June 4, 2013

The bill passes.

Senator Looney.

Senator Looney.

SENATOR LOONEY:

Thank you. Thank you, Madam President.

Madam President, wanted to add as an additional go item calendar page 19, Calendar 690, Substitute for House Bill 6358, but if the clerk would call as the next bill continuing calendar order, calendar page 16, Calendar 674, House Bill 6441.

THE CHAIR:

Mr. Clerk.

SENATOR LOONEY:

Thank you, Madam President.

THE CLERK:

On page 16, Calendar 674, Substitute for House Bill Number 6441, AN ACT CONCERNING THE DAM SAFETY PROGRAM AND MOSQUITO CONTROL, favorable report of the Committee on Environment.

THE CHAIR:

Senator Meyer, good afternoon again.

SENATOR MEYER:

Thank you.

I move acceptance of the joint committee's favorable report and passage of the bill in concurrence with our House.

THE CHAIR:

Motion is on accepted and passage in concurrence.

rgd/gbr
SENATE

81
June 4, 2013

Will you remark, sir?

SENATOR MEYER:

Yes, colleagues, this --

THE CHAIR:

Excuse me, sir.

I'd ask the chamber -- there's a bill being brought out. I'd ask the chamber to hold their voices down, please.

Thank you.

Please proceed, Senator Meyer.

SENATOR MEYER:

Okay. This bill, Madam President, is called the Dam Safety Bill. And as some of my colleagues know, because of my father's instructions to me many years ago, I call it the, darn safety bill.

So we have actually in Connecticut about 5,500 dams and 3,000 of them are regulated by DEEP. They're regulated by DEEP because they have a degree of hazard. You can imagine that if a dam breaks open and floods it can cause extreme damage, damage not only to property, but perhaps to life as well.

Seventy-two percent of our dams are privately owned and the rest are publicly owned. And what this bill does is it seeks to set up a new system of dam regulation and inspection and repair that we have not had before. In the past DEEP has been responsible for inspections and enforcement of the registered dams. And what this bill does is it moves that kind of responsibility from the agency, from the state agency to the owner.

And what the owner will be expected to do hereafter is to have his or her dam inspected by a licensed registered professional engineer and submit the inspection results to the agency on a particular form. So the inspection process, in other words, will move

from being centered on the agency to being centered on the owner and the owner's licensed professional.

The bill also provides that the commissioner must consider tidal wetland impacts when deciding to issue a permit for the construction of a new dam and that happens frequently. And the effect on tidal wetlands is obviously something that we should be considering.

It also requires owners of dams that are viewed as having significant hazards to development and implement an emergency action plan. So that if, for example, the dam breaks and the water -- thousands of gallons of water streams out, there's a way to have an emergency action and so that as few people and property will be hurt.

The bill goes on in a separate section that was added by the House of Representatives to address the problem we have of certain mosquito larvae, in particular, methoprene. You recall last year the Senate passed a bill restricting use of methoprene because our lobstermen had said that methoprene was a principle cause, in their view, of the loss of our lobster population in Long Island Sound. And so this bill brings back that concept and establishes a plan for controlling mosquitoes without the necessary use of methoprene.

The bill finally, through an amendment made by the House, requires DEEP to take certain steps to prevent the West Nile virus. And that you'll see from the bill that there's a coordination with the Department of Public Health and local health departments to survey lands seeking to find the presence of mosquitoes that could cause the West Nile virus, and then taking action to curtail mosquito problems and leading to the West Nile virus.

So in essence this is an important bill for Connecticut. It affects many, many "darns," as I call them and it helps with -- hopefully with our lobster population by restricting methoprene and resmethrin as well.

Thank you, Madam President.

rgd/gbr
SENATE

83
June 4, 2013

THE CHAIR:

Thank you.

Will you remark?

Senator Chapin.

SENATOR CHAPIN:

Thank you, Madam President.

Madam President, I rise in support of the bill before us is and I'd like to thank the chairman for his very good explanation of what it does. This is not a new bill that has come before the Environment Committee. I think this might be year two. And I know we endeavor to make it move forward with the least amount of impact on our municipalities as possible while recognizing that the agency at times is understaffed. That's not through any fault of theirs. That's -- I guess we share the blame here on staffing at times.

So I think it strikes a good balance keeping in mind that we need to ensure public safety in the State of Connecticut. As the chairman said, there are a number of -- a large number of dams in the state and the one part of this bill that deals with the high and significant hazard dams with requirements for emergency operation plans, I think, is crucial to the public safety of the residents of the state of Connecticut.

Again, I conclude by saying I think it's a good balance and I encourage my colleagues to support it.

Thank you, Madam President.

THE CHAIR:

Thank you very much.

Will you remark?

Senator Welch.

SENATOR WELCH:

rgd/gbr
SENATE

84
June 4, 2013

Thank you, Madam President.

I do have a few questions for the proponent of the bill.

THE CHAIR:

Please proceed, sir.

SENATOR WELCH:

Thank you, Madam President.

The bill we had before us in the past I think was a bit different in that it was an outright ban on -- yes, on methoprene, but it's not just methoprene. On resmethrin as well.

As I understand the bill before us, in fact, this is not an outright ban. Is that correct?

Through you, Madam President.

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

This is not -- that's correct, Madam President. This is not an outright ban. The ban is -- relates to storm drains or water conveyances on the coastal boundary. So it is not an outright, all-across-the-state ban. It relates to our coastal boundary, which again is directed at the lobster problem.

THE CHAIR:

Senator Welch.

SENATOR WELCH:

Thank you, Madam President.

And as I hoping Senator Meyer can help me understand

rgd/gbr
SENATE

85
June 4, 2013

what we mean by coastal boundary. We had a coastal bill before us a couple days ago and it seems as if most municipalities that had even a river or a tributary would actually be impacted by that. But it seems to me -- and I'm hoping the answer is such that when we talk about coastal boundaries we're really talking about those towns that border the Long Island Sound. Is that correct?

Through you, Madam President.

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Yes. Through you, Madam President.

To Senator Welch, Mr. LaFrance has just advised me that coastal boundary is defined as 1,000 feet of the shoreline.

THE CHAIR:

Senator Welch.

SENATOR WELCH:

Thank you, Madam President.

And just so I can be absolutely clear, for instance, in the 31st District we have the Pequonnock River. Now the Pequonnock River, the water from the Pequonnock would eventually make its way down to the Long Island Sound. But my understanding as I read this bill, and indeed the Pequonnock River and land surrounding that would not be considered coastal -- let me just make sure I have the term here -- coastal boundary with respect to this statute. Is that correct?

Through you, Madam President.

THE CHAIR:

Senator Meyer.

rgd/gbr
SENATE

86
June 4, 2013

SENATOR MEYER:

Through you, Madam President.

That would -- that's correct, assuming that the river is not within a thousand feet of the shoreline, the shoreline of Long Island Sound.

SENATOR WELCH:

Great.

THE CHAIR:

Senator Welch.

SENATOR WELCH:

Thank you.

And that's a very important answer to me. I do note that we -- that there is an exception in here, though, and I think that exception has to do with cities that are a population of greater than a hundred thousand that have had at least one recorded death of West Nile virus -- and I see that Senator Meyer is nodding his head. And that is why I was concerned about this bill in past years.

As I understand, most municipalities use methoprene to treat their standing water with respect to controlling mosquitoes. And I also understand that there really aren't a lot of cost-effective alternatives.

If I may, through you, Madam President, ask of Senator Meyer, what would be an alternative to methoprene or resmethrin?

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Again, looking to my great source here Rob LaFrance, he says the alternative would be something called BTI.

rgd/gbr
SENATE

87
June 4, 2013

THE CHAIR:

Senator Welch.

SENATOR WELCH:

Thank you, Madam President.

And I could be wrong on this, but I believe that is a much more costly alternative. And obviously the science behind the impacts of that aren't even as evolved methoprene, and I think some would say that the science behind the methoprene which has led to the allegations of impact on the lobster population in Connecticut is somewhat questionable as well.

In fact, I believe the last two years we've had some of the largest lobsters and largest lobster crops in the Sound just because of the climate and the water and the surrounding environment as well.

So I guess, Madam President, all of this leads me to the conclusion that when you look at this bill from a public health perspective this chemical is very important to preserving the life and safety and health of the individuals of the state of Connecticut in that it helps control mosquito populations that carry West Nile virus, ergo exception for cities of over a hundred thousand with at least one reported death of West Nile.

But as I understand it from the perspective of the 31st District, the towns within the 31st would continue to be able use this should they deem that to be the safest thing for the people of the 31st District.

Thank you, Madam President.

THE CHAIR:

Thank you.

Will you remark?

Senator Duff.

rgd/gbr
SENATE

88
June 4, 2013

SENATOR DUFF:

Thank you, Madam President.

Briefly I just wanted to rise in support of the bill and thank Senator Meyer for all of his hard work and also that of the DEEP, Representative -- well, Senator Chapin and Representative Minor for their work as well.

The methoprene piece of this legislation is very important, I think, to many shoreline legislators and those who have lobstermen in their districts. They have been devastated over the years because of various reasons. And I think some of may happen to be the chemical that is being used in Long Island Sound and I think that this is at least a first step into trying to help resolve some of that.

So I just want to send my thanks to Senator Meyer, the chair, and Senator Chapin, the ranking member and all those who've been involved in this legislation. And I hope that this will hopefully help her lobstermen who have, for many generations, have been on the Sound and farming the Sound and this will help them move forward on what is a very important industry for us.

Thank you, Madam President.

THE CHAIR:

Thank you.

Will you remark? Will you remark?

Senator Meyer.

SENATOR MEYER:

If there's no objection, Senator Welch, no objection on your part, we will put this on the consent calendar, please?

THE CHAIR:

Seeing no objection, we will mark it consent.

rgd/gbr
SENATE

241
June 4, 2013

Page 3, Calendar 422, Senate Bill 978; on page 4, Calendar 475, Senate Bill 1052; on page 8, Calendar 567, House Bill 6387; Calendar 568, House Bill 6445; and Calendar 580, House Bill 6623.

On page 9, Calendar 583, House Bill 5149; and Calendar 590, House Bill 6680; page 10, Calendar 607, House Bill 6688; and calendar 608, House Bill 6384.

Page 11, Calendar 612, House Bill 6448; and Calendar 621, House Bill 6488. On page 12, Calendar 634, House Bill 6403; and Calendar 636, House Bill 6394; page 13, Calendar 645, House Bill 6454; and page 14, Calendar 652, House Bill 6702.

On page 16, Calendar 674, House Bill 6441; page 17, Calendar 677, House Bill 6644; on page 18, Calendar 685, House Bill 6009; and on page 23, Calendar 380 Senate Bill 1054; page 24, Calendar 452, Senate Bill 1142; and Calendar 566, House Bill 6375.

Page 25, Calendar 646, House Bill 5844; and on page 26, Calendar 304, Senate Bill 1019.

THE CHAIR:

At this time, Mr. Clerk, will you call for a roll call vote on a first consent calendar?

The machine will be open.

THE CLERK:

Immediate roll call has been ordered in the Senate. Senators, please return to the chamber. Immediate roll call on the first consent calendar has been ordered in the Senate.

THE CHAIR:

If all members have voted? All members have voted. The machine will be closed.

Mr. Clerk, will you please call the tally?

THE CLERK:

rgd/gbr
SENATE

242
June 4, 2013

The first consent calendar.

Total Number Voting	35
Necessary for Adoption	18
Those voting Yea	35
Those voting Nay	0
Those absent and not voting	1

THE CHAIR:

The consent calendar passes.

Senator Looney.

SENATOR LOONEY:

Thank you, Madam President.

Madam President, would move for immediate transmittal to the House of Representatives of all items acted on thus far today requiring additional action in that chamber.

THE CHAIR:

So ordered.

SENATOR LOONEY:

Thank you, Madam President.

Also, Madam President, on an item previously placed on the foot of the Calendar, would now seek to remove that item and just mark it PR, and that is an item calendar page 16, Calendar 672, House Bill 5480, AN ACT PROHIBITING TAMPERING WITH HYDRANTS. Would just move to remove that item from the foot and to mark it PR.

THE CHAIR:

So ordered.

SENATOR LOONEY:

Thank you, Madam President.

**JOINT
STANDING
COMMITTEE
HEARINGS**

**ENVIRONMENT
PART 1
1 – 305**

**2013
INDEX**

1 February 25, 2013
smj/vd/gbr ENVIRONMENT COMMITTEE 10:30 A.M.

CHAIRMEN: Senator Meyer
Representative Gentile

MEMBERS PRESENT:

SENATORS: Maynard, Chapin

REPRESENTATIVES:

Albis, Shaban, Backer,
Bolinsky, Bowles,
Buck-Taylor, Demicco,
Hennessy, Hurlburt,
L. Miller, P. Miller,
Miner, Mushinsky, O'Dea,
Ryan, Sampson, Sear,
Urban, Vicino, Ziobron

SENATOR MEYER: This is the February 25th public hearing of the Environment Committee. We've got a very provocative agenda today. The Chairs want to say one thing about the pesticide bills, and that is that there's going to be an additional pesticide bill that's going to relate to some science examination of pesticides by experts, and that group will report back to the General Assembly and the Governor by January 1st of next year. And we will be guided, at least in part, by that study and the recommendations of that study as we move forward with pesticide legislation.

Madam Chair, anything you'd like to add?

REP. GENTILE: No. Thank you.

SENATOR MEYER: Okay. Our first witness is the great Commissioner of the Department of Energy and Environmental Protection, Dan Esty.

COMMISSIONER DANIEL C. ESTY: Thank you, Senator.
(Inaudible). A pleasure to be with you. And my thanks as well to the Vice Chairs and the ranking members for the time that they give to

HB6441
SB915
HB6438

February 25, 2013

smj/vd/gbr ENVIRONMENT COMMITTEE

10:30 A.M.

our department and to the issues that matter so much to so many citizens of the state of Connecticut. I know there's 10 items on the Agenda. I want to speak to three of them, but of course would answer questions on any of those that you all would like to discuss.

So, the items I'd like to pick up, if I could, would be Item Number 2, the Dam Safety bill that we put forward, Item Number 3, which is Restricting the Use of Methoprene and Resmethrin. It's really about lobsters. And Item Number 10, which is Authorizing Bow and Arrow Hunting on Sundays Under Certain Circumstances. I have my Deputy Commissioners, Macky McCleary and Susan Whelen here. They will address some of the issues in more detail. And, of course, they're available for questions, as are additional staff.

So, what I would like to start with, if I could, is the dam safety program which is House Bill 6441, and this is fundamentally and overridingly an issue of public safety. And it will ensure that we're able to inspect dams on a regular basis and take corrective action where that is required and in a timely manner, particularly to address imminent downstream threats. As many of you will know, having been focused on this issue for some time, we have 425 high or significant hazard dams in the state of Connecticut. These are classified in that way based on their potential to cause significant property damage and/or loss of life in the case of a catastrophic dam failure. And we know that this issue of dam safety and the risk of dam failure and flooding is not hypothetical. We have in the last two years and two months had five catastrophic weather events, including two hurricanes after 25 years without any hurricanes. And we know that our neighbors to the north in Vermont faced catastrophic flooding

HB6441HB6438SB915

in the course of Hurricane Irene. So, we want to be prepared for the scale of rainfall that could stress these systems, and that's the essence of this bill.

The dam safety legislation we put forward also improves the efficiency of our State programs. It does impose some greater burden on property owners, but these are in many cases private property dams. And we do need to recognize the limits of State capacity, and, therefore, there is an element here that seeks to ensure that private property owners with dams step up in term of the quality of those dams and in terms of permitting and compliance assurance.

We believe this proposal will also create jobs. It will support some number of hours and days of professional engineering time as we ramp up our inspection of dams and our construction oversight. We also believe this will streamline the permitting process and eliminate unnecessary waiting periods for the general permits that we intend to use, and will eliminate duplicative permitting reviews. It further assists our cities and towns who, as we all know, face additional budget strain themselves by helping Emergency Management officials respond more efficiently. And, again, we know that given our challenges on the prospect for increased numbers of these climatic weather events that we will benefit from having a better structure in place that helps us deal with them. And it does set up a standardized emergency action plan structure that we would ask of all dam owners so that we'll clearly understand where there is a danger of flooding, who would face that flooding if a dam should fail, and provide some information on how the dam in question is going to be monitored during periods of heavy rainfall as well as outlining emergency response procedures that would be available, including

warning and evacuation of downstream residents.

If I could, Senator, I'll continue to the two other bills on which I'd like to comment, and then take questions across all of them.

So, the next bill that I'd like to discuss briefly is Senate Bill 915, which authorizes Sunday hunting with bow and arrow under certain circumstances. I think many of you know this is a bill that we have put forward before. It's a bill that I worked very hard on in the last session. It's a bill that I think is of enormous importance to the citizens of Connecticut and for a number of reasons that I'd like to put forward.

First, we have an over abundance of deer in many of our cities and towns. And that's true in the southwestern corner of the state and in the northeastern corner of the state. And this over abundance of deer creates a significant degree of environmental damage, a loss of our under story habitat that's important for so many of our plants and animals, our native species. And, in fact, has created a risk of invasive species getting in more easily. It creates risk to public health and safety, particularly the risk of tick-borne disease, not to mention vehicle collisions. So, there are real public health and safety issues here that I think need to be addressed.

And I do believe that the idea of an expanded hunt is valuable in responding to those concerns. We have certainly heard from a great number of municipal leaders, CEOs particularly in Fairfield County, about the negative deer-human interactions, about the risk of vehicle collisions, about the tick-borne disease problems. And I think we now have decades of research showing that bow hunting can be a safe

contributing. So, I look forward to getting the results of that, I think would be really interesting.

So, thank you for your testimony. And thank you, Mr. Chairman.

SENATOR MEYER: Thank you. Representative Bowles.

REP. BOWLES: Thank you, Mr. Chair.

Commissioner, appreciate your time, being with you and your staff. My question has to do specifically with the House Bill 6441, and it looks to me that you're really trying to -- I was reading through the bill. You're trying to be a little bit more vigilant in terms of your inspection process. My question has to do -- and I know this issue has come up in my district -- with those owners who have privately-owned dams.

In order to encourage the repair and maintenance of these dams, what resources exist currently to private owners of dams to go ahead and conduct such repairs? Thank you.

COMMISSIONER DANIEL C. ESTY: So, I do think, Representative, that we are trying to be more vigilant. This is, in fact, a purpose of why we put this bill forward. We think that there is a growing risk of major rain events that require us to be vigilant. We think that this is something that needs to be addressed as a risk before a problem arises. And I think we also are facing a world of limited State resources. So, there is some shifting hereof responsibility toward the private homeowner -- private dam owner in this case, private property owner to bear a responsibility for that.

But I will ask the Deputy Commissioner dig in it

on more of the details.

MACKY McCLEARY: So, I think there is one very important question here, which is -- and I'll just boil it down to where is the money. And right now there is not a financial, at least State level financial resource for this, although we'd be happy to engage this Committee on a conversation about how something like that might work. There may be Federal funds. In fact, there are some interior and fish and wildlife that sometimes are related to dams, but it's a complicated funding landscape in today's world obviously.

COMMISSIONER DANIEL C. ESTY: And if I could add one further nuance, and that is part of the bill is also aimed at streamlining the permitting process. And in that regard, we hope to reduce the burden on the private dam owner, lower the cost of that permitting and free up some resources for the inspections that would be required.

REP. BOWLES: Yes. Just if I may, and I would ask Representative urban if she has additional comments. We did meet with some -- a landowners association in the town of Ledyard that I believe they have responsibility for one or two -- they actually identified, I believe, three privately owned dams in the town of Ledyard. And their concern really has to do with the costs associated with keeping these dams safe. And even more so, I would suggest, the liability associated with, you know, a major event happening such as we've been having on a fairly frequent basis lately. You know, their liability issues associated with downstream impacts of this and, again, where can they get -- I think that's the biggest concern, is the liability, even more than the resources. So, I would just ask that you keep that in mind

25 February 25, 2013
smj/vd/gbr ENVIRONMENT COMMITTEE 10:30 A.M.

as this moves forward. Thank you.

Thank you, Mr. Chair.

SENATOR MEYER: Thank you. Representative Urban, did you have anything you want to add?

REP. URBAN: Well, in my addition, I'm probably going to punt to Senator Maynard because he was the last one to talk to them. But what Representative Bowles has expressed is indeed the true issue that they're trying to deal with there. And yet I appreciate that there are many instances of this in Connecticut, and that I know that it's become a challenge for the Department of Environmental Protection and energy and environment protection to deal with it. But he's represented it correctly, and I think that Senator Maynard was the last one to talk to him. So, if there's additional information, so, I said I'm punting.

HB6441
SB915

What? So, then, there are a few other areas, Commissioner. And I'm not going to belabor, I'm not going to belabor these. I know we talked about the methoprene and the resmethrin, and I would just like to echo what you have heard, that due caution be pursued here. It's one of the areas that I have an expertise in, environmental economics, and I am enormously, of course, as Chair of the Committee on children, enormously concerned with the, with the latent impact of those kinds of chemicals.

And then I would like to comment briefly on the Sunday hunting bill. If I can -- I want to be sure I understand this, because as you well know, I am big on data informed legislation. Is my understanding that this Sunday hunting is being introduced as a deer management tool? Okay.

hepatopancreas and ovaries of female lobsters collected in the sound. It is a matter of great concern.

I don't know if that answers your question.

SENATOR MEYER: Okay. Any other questions?

Thank you, Representative Wright.

REP. WRIGHT: Thank you, Mr. Chairman.

SENATOR MEYER: Our next witness is Gwen MacDonald of Save the Sound, followed by Alex Pachkovsky.

A VOICE: (Inaudible).

GWEN MacDONALD: Thank you. My name is Gwen MacDonald and I'm the director of habitat restoration for Connecticut Fund for the Environment and Save the Sound. On behalf of CFE I'd like to ask the Environment Committee to favorably report on Bill 6441, An Act Concerning Dam Safety, out of Committee. Connecticut Fund for the Environment sees this as an important step to hold dam owners accountable for the condition of their dams and to provide the tools necessary to enforce existing regulations by the DEEP Dam Safety Program.

There are approximately 7,000 river miles in Connecticut and over 5,000 dams. Dams have been a part of the New England landscape for hundreds of years, but in most cases these dams no longer serve the purpose for which they were constructed. In these cases, each remnant dam is a barrier to natural riverine habitat connectivity and over time can cause habitat fragmentation, increase water temperature, decrease water quality, and adversely affect the health of the river system and the species in it. Migratory species such as American eel,

river herring, American shad, and Atlantic salmon have seen populations decline in part because the species cannot travel between their feeding and spawning habitats. This year river herring and American eel were nominated as candidates for the federal endangered species list. This listing -- the listing of key Connecticut fish species on the Endangered Species List is a message we can't ignore. River restoration through the removal of derelict dams is an effective way to restore habitat for these and other threatened species. In 2012, over 50 stream miles were reconnected to Long Island Sound through the removal of barriers to fish passage, which has allowed hundreds of thousands of fish to return to their historic spawning grounds.

In 2008, DEEP's Dam Safety Program inspected 80 dams. Of these 100 percent were in need of some form of maintenance and 36 percent required significant enough maintenance to require a permit. In order to comply with current regulation, Dam Safety would need to inspect approximately 450 dams per year. With current staffing, it's impossible for Dam Safety to inspect the required number of dams and to take enforcement action against those who do not maintain their dam. These derelict dams pose a hazard to riverine wildlife and to human communities downstream, should the dam breach catastrophically. Transferring the burden of dam inspections from the State to the dam owner will not only allow Dam Safety to better enforce maintenance orders, it will allow dam owners to properly evaluate the cost and benefit of keeping a dam on their property.

With the frequency and intensity of storms on the rise, inspecting and enforcing maintenance orders on dams is all the more critical. Towns throughout Connecticut are identifying ways to

make their communities more resilient to future storms and sea level rise. One way to reduce risk to Connecticut communities is to remove derelict dams. Section 6 of this bill proposes new language under Section 22a-411 of the statute that would allow the commissioner to issue a general permit for "dam removal that improves fish passage or provides other ecological benefits." This would reduce the time and cost to the dam owner of permitting which may lead to more dams being removed from the landscape and fewer dollars being spent to remove each dam. We believe fewer dams on rivers will lead to healthier streams and safer coastal communities.

CFE sees Raised Bill 6441 as important to strengthening the enforcement capabilities of the DEEP Dam Safety Program so they may better defend the safety of residents and the environment. Holding dam owners responsible for inspecting their dams is a cost-effective way to evaluate potential hazards on private properties and raise awareness about maintenance and removal options. We look forward to working with DEEP and the Committee to make this a reality. Thank you.

SENATOR MEYER: Thank you.

Committee members have any questions? Yes, Representative Ziobron.

REP. ZIOBRON: Thank you, Mr. Chair.

I just have a quick question. I'm curious, is your organization prepared to help some of these private dam owners in achieving what you're discussing? As we've heard, there's no funds available to them for these projects. So, is there any funds available through your folks or guidance at all to help those property owners?

GWEN MacDONALD: Sure, I can speak to that. Although we aren't aware of a set fund year to year for the repair of dams, we -- our group does raise funds for the removal of dams and works with private landowners to make that a reality. We are happy to work with landowners, as are the other people who are speaking to -- if private owners are interested in removing their dam and eliminating permanently the costs associated with inspecting and maintaining the dam. There's both State and Federal funding available on an ongoing basis. There's not a fund identified for that specific removal, although we would be happy to talk with you all if you would like to identify such a fund. But U.S. Fish and Wildlife National Oceanic Atmospheric Administration and the State of Connecticut have all in the past provided funds for dam removal for the purpose of fish passage restoration and ecological restoration.

SENATOR MEYER: Thank you, Representative.

Any other questions? Representative Bowles.

REP. BOWLES: Yes, thank you, Mr. Chair.

Yeah, just to follow-up on that again, my major concern with this bill is that at least landowners association that I'm familiar with in southeastern Connecticut, clearly they do not have a fund so it can go ahead and comply with any majored to go ahead and repair or maintain the dams that they do have. So, my concern is the issue of resources, but also technical assistance. So, I appreciate your offer of support and would actually like to take you up on that, you know, off line if we can take about that. Again, this association comprises probably about, I don't know, 20, 20 different landowners in southeastern Connecticut with

three identified dams that they are asking for some help for, specifically around liability issues. But I think they're also concerned about the stream effects in terms of these dams and their benefit to the community as a whole. So, I think they would welcome the opportunity to talk to you and anybody else about that, okay.

GWEN MacDONALD: Yes, thank you very much. I'd be happy to do that. I also want to say that this bill does not change the liability to the dam owner associated with the current dam on their property. So, in some ways the burden of inspection hopefully will raise awareness for dam owners that they do have this liability currently, and a dam that's in poor condition, if it causes damage to downstream properties, those dam owners are on the hook. So, hopefully this will raise awareness for the community.

REP. BOWLES: Yeah, this particular association is acutely aware of their liability. So, I'd like to further this discussion again. Thank you.

GWEN MacDONALD: Thank you very much.

SENATOR MEYER: Any other questions by the Committee?

Thank you so much -- oh, I'm sorry,
Representative Miller.

REP. MILLER: Thank you, Mr. Chair.

I don't know if you can help me out with this one. When Section 5 refers to "the owner of a high or significant hazard dam," what would that entail?

GWEN MacDONALD: The hazard classification of the dam has to do with the potential impact to downstream property or loss of life if the dam

were to breach catastrophically. So, what that means, if there is a large storm and the dam blows out, then there would be an impact to downstream residents. For high hazard, I believe it is -- there's loss of life involved for significant -- there's, you know, a loss of property valued at a certain level. So, you know, a dam with an urban environment downstream, they have a higher hazard classification than a dam in a rural landscape on an agricultural land, for example.

REP. MILLER: I have an association that has a lake that they put fish in every year and they try to keep it as clean as possible. Unfortunately, they're right next to Route 8, and Route 8 impacts this waterway with all kinds of stuff from the highway. And DEEP has gone in there a number of times to dredge or clean it out with bucket loaders and so forth. Would this have any impact on the owner's liability when the State of Connecticut is also adding to the problem of having this dam be somewhat affected by what the State does from the runoff?

GWEN MacDONALD: Without knowing the specifics of that -- of your case, I would say that this bill does not, in my interpretation anyway, at all change the liability associated with what the owner is responsible for. It merely moves the same inspection requirements from the State to the private owner, or actually a representative of the private owner which would be a Connecticut licensed professional engineer. So, I don't think that would change in a positive or negative way the sediment problems that you seem to be experiencing.

REP. MILLER: (Inaudible). Thank you!

GWEN MacDONALD: Thank you.

SENATOR MEYER: Thank you. Representative Shaban.

REP. SHABAN: Thank you, Mr. Chairman.

Quick question, if I may. You mentioned that your organization had helped with some removal, some dams and whatnot. Has your organization ever helped with repair?

GWEN MacDONALD: Our organization is interested in promoting ecological restoration goals throughout Connecticut, and one of those goals includes reconnecting riverine migratory corridors throughout the state that feed into Long Island Sound. So, repairing dams is not an effective way of restoring habitat, but we have in the past constructed fishways and at that point we have to make sure the dams are up to code. But we wouldn't be -- we would not be interested in repairing dams for their own sake, but instead to promote the habitat connectivity associated with that.

REP. SHABAN: Right, that was actually going to be my next question, if you had done some fish ladders and whatnot. The assumption is, and maybe you have --

GWEN MacDONALD: Yes.

REP. SHABAN: Your preference is to get rid of the dam. But if the dam is going to stay for whatever reason, you help with fish ladders and connectivity and whatever -- however you do it. In that capacity, have you had opportunities or seen occasions where some upstream riparian owners have had issues with dam removal?

GWEN MacDONALD: Certainly, certainly property owners throughout regions are affected in different ways by the removal of the dam. And we see the removal of the dam as a change in recreational

use, not a loss of recreational use. But are you referring to someone who is currently -- their house is on the -- on waterfront on the --

REP. SHABAN: Yeah, basically upstream because downstream someone can own -- or the dam is on their property, but, you know, 8, 10, 15 lots upstream where the pond is now, suddenly there's no more pond.

GWEN MacDONALD: Yeah. And I think that there's -- there are cases where that -- where people have been very happy with their change in use and there are cases where that -- there were that person or that collective of people have stopped the removal of the dam. However, I think that you should -- wouldn't mind bringing this question up with another witness, they have some experience, especially in Massachusetts. There have been pretty significantly large dam removals in recent years. And, so, the community groups surrounding those particular impoundments have come together and been -- had found that the liability associated with the dam and the dangers associated with the dam failing outweigh what they -- the use that they previously had on the impoundment.

REP. SHABAN: All right, good, good. All right, thank you.

Thank you, Mr. Chairman.

SENATOR MEYER: Thank you, Representative Shaban.

Any other questions?

Appreciate it.

GWEN MacDONALD: Thank you very much.

SENATOR MEYER: Our next witness is Alex Pachkovsky

Thank you.

AMY SINGLER: Thank you for the opportunity to comment on Bill Number 6441, An Act Concerning the Dam Safety Program.

My name is Amy Singler. I'm the Associate Director of American Rivers River Restoration Program. Our northeast staff are working with partners on over 50 dam removals in New England that are currently being designed, several of which are in Connecticut. American Rivers strongly supports this bill. Despite the large number of dams in the state, Connecticut's dam safety office has only one full-time dam inspector who is able to inspect around 100 dams each year, less than 2 percent of the 5500 dams in the state. This bill would fix that problem by requiring dam owners to hire qualified engineers to inspect their dams.

Increasing dam inspections is critical because public safety incidents are occurring over and over again in Connecticut because of aging dams. For instance, in March 2010, a near failure of a dam in Stonington forced the evacuation of downstream residents for the second time in only three years. That dam was thankfully removed in 2012, permanently eliminating the safety hazard. In 1982, 17 Connecticut dams failed and another 31 were damaged. Losses due to dam failures at the times total an estimated \$156 million in today's dollars, and dams are in worse condition now than they were then. Unless dams are well maintained, their condition only gets worse every year. The most cost-effective and permanent way to deal with unsafe dams is often to remove them.

For that reason, this bill provides more than public safety improvements. It will also result in tremendous environmental benefits. Dams

cause harmful impacts to fish and wildlife in rivers and we have seen that throughout the northeast, that where dam safety is more effectively enforced, dam owner choose to remove dams rather than let them deteriorate. More than 1,000 dams have been removed in the United States, and 80 of those dams were in New England in the last 10 years.

We have seen in case after case that once the dam is removed, fisheries and river habitat improves, and there is no longer a safety hazard from failure. There is no longer a safety hazard to boaters and kids playing on and around dams. And there is no longer any maintenance need or liability for dam owners. Removing dams presents remarkable win/win/win scenario for dam owner liability, public safety, and for the environment.

Connecticut would not be alone in enacting the changes put forth in this bill. Massachusetts enacted very similar changes in 2006 after the near failure of a dam forced the evacuation of 2000 people from downtown Taunton. When Massachusetts enacted a similar change, they had seen tremendous benefits with dam owners now taking responsibility for repairing and maintaining their dams and many dam owners are choosing to remove their dams as a result.

It is with these issues in mind that American Rivers strongly supports the proposed language in this bill. Thank you.

REP. GENTILE: Thank you, Amy.

Any questions? Thank you. Representative Kim Rose followed by Sally Harold.

REP. KIM ROSE: Good afternoon, Representative Gentile, members of the Environment Committee.

HB 6439

our community. I'm just looking for the language. It's not a requirement that these boxes are put out. It's a voluntary program or is it a requirement?

REP. KIM ROSE: I'm sorry. Would you repeat the question?

REP. O'DEA: Sure. The bill, does it require these boxes be put out or is it voluntary for each community?

REP. KIM ROSE: Right now it's a voluntary program and it's gone quite well. It's gone from seven cities and towns to over 30 as we speak. This would increase that to requiring each town.

REP. O'DEA: Thank you.

Thank you, Madam Chair.

REP. GENTILE: Thank you.

Any further questions?

Thank you, Representative Rose.

Sally Harold followed by Representative Steinberg.

SALLY HAROLD: Good afternoon and thank you for the opportunity to discuss in front of you Bill 6441, An Act Concerning Dam Safety Program. My name is Sally Harold and I'm Director of Migratory Fish Projects for The Nature Conservancy's Connecticut Chapter.

On behalf of The Nature Conservancy's 28,000 members in Connecticut, I am here to express our support for Bill 6441. This bill proposes transferring the responsibilities and costs for inspection of privately-owned dams from the

Connecticut DEEP to the dam owners, requiring all dam owners to register their dams with the State and requiring owners of high and significant hazard dams to file Emergency Operating Plans for their dams.

Many dams benefit people by providing impoundments for water supply, electricity generation, and flood control, but the majority of dams in Connecticut no longer serve the purpose for which they were constructed. Where conditions are appropriate, The Nature Conservancy supports dam removal. Selective dam removal thoughtfully carried out is one of the most cost-effective fisheries and river restoration methods available. The proposed bill would help to streamline the permitting process for dam removal.

Connecticut has over 5,000 dams and a requirement that every dam be registered. Over 3,000 have been registered and over 1500 of those are regulated by the State due to the degree of damage that could result if they failed. More than 500 of these dams, or about 17 percent, are classified as significant hazard or high hazard dams, meaning their failure could cause loss of life, damage to habitable structures, residences, roadways and railroads, and significant economic loss. Dams are weakened and become prone to failure by flooding, freezing and thawing, and old age. Therefore, dams must be inspected at regular intervals, maintained and repaired; alternatively, where possible, dam removal should be considered as a viable alternative to continual maintenance. The fairest way to prevent failure is to hold owners of dams responsible for the cost of inspection and accountable when their dams are not maintained in safe condition. Many owners are unaware of their responsibilities and liabilities as a dam

owner and even more are unaware of the impact their dams have on streams. The approval of Bill 6441 would raise awareness of the responsibilities associated with dam ownership and improve public safety by ensuring that more dams are inspected more frequently.

In order to meet the current schedule of inspections, Connecticut DEEP's one dam safety inspector would have to inspect more than 450 dams each year. Since the Dam Safety Program is also responsible for the State's regulatory program and inspection of the State's 265 state-owned dams, many dams that should be inspected each year are not. The program is currently able to undertake only approximately a hundred regulatory dam inspections each year. Transferring the responsibility of dam inspections from the State to dam owners and privately-hired engineers will result in dams being inspected according to schedule, and it's likely that some owners who are obligated to pay an engineer to inspect their dams may decide to pursue removal as a desirable alternative. And those dams that remain in our rivers will be safer.

We are experiencing more severe and frequent storms in Connecticut, so, regular maintenance and inspection of dams is critical. The Dam Safety Unit of the Connecticut DEEP is concerned with public safety around dams. Dam failures can be costly and deadly. Emergency Operating Plans for high and significant hazard dams will serve as a management tool to reduce public risk during storm events. Evacuations of neighborhoods downstream of a high hazard dam will be based on known concerns rather than fear alone.

Thank you for this opportunity to speak before you.

doing or broader considerations.

It may be a struggle at first and the adjustment is going to take some time, but I think that DEEP has demonstrated that they are effective in working with municipalities in many guises. And obviously they could improve, and I would argue the one way to make that happen is to make sure they have adequate resources to do their job and to interact with the municipalities. We have shortchanged them for many years, and we could perhaps solve a lot of these problems if we just gave them the resources to get it done. But I'm optimistic, to answer your question, that they could take on an appropriate role and liaise with municipalities to mutual benefit.

REP. GENTILE: Thank you. Any further questions?

Thank you, Representative.

Margaret Miner followed by Paul Brady.

MARGARET MINER: Good afternoon, Chairman and members of the Committee. Good to see you. I'm Margaret Miner with Rivers Alliance of Connecticut. Our mission is to protect rivers and other state waters. I submitted testimony on three bills. I wanted to discuss two quickly in more detail. One is the Dam Safety Program, 6441. We do support this bill in particular because it does bring more information into the -- into decisions regarding rivers. And it will certainly inspire some dam removal, which is very important for rivers. The transition I think is going to be a little difficult. The details may depend on regulations written by DEEP.

I mentioned a couple of concerns. The emergency action plan, I really don't see how individual dam owners are going to be a practical

instrument for writing emergency hazard programs that involve several communities. There are other ways of doing it right, but I think that in this case if you focus on the security and safety issues, you may find more funding from the Homeland Security sources and Federal sources than for people that just -- sources that just help fish and the rivers.

The criteria and standards for inundation studies and inundation zone mapping, we strongly support DEEP developing those criteria, and a wide range of programs including storm water. But they should, and I hope they will use the latest extreme storm data, and I think that should be a goal across our water control programs. Both for this bill and the next one I'll briefly talk about. We urge local notice and a chance for local comment. It's the local commissions that are out in the river. They're going to see the people out there. What's going on in the river? They should have an opportunity to be noticed of any work and to comment on it, and they can help the DEEP by being the "in the river eye" there. So, those are our comments on that. We feel it needs some work to get it right.

I agree 100 percent with Representative Steinberg. You know, now that the science over the past 10 to 15 years has become overwhelming moving in one direction -- well, I'm glad we're going to collect the science, but the science is very strong that -- particularly for cosmetic pesticides that aren't very needed, that really don't serve a health purpose or an agricultural purpose, that we should restrict them, and that towns should have the ability -- there is not one size fits all for towns. Moreover, DEEP, that department has very, very few people to go out into the field. How would it be regulated? It would be regulated the same.

Frankly, a lot of towns already do it. I know at least a couple near me that do regulate. They say, don't go within 50 feet or you'll have to come in to us for a permit. So, what I've seen is it's done through wetlands as part of their permitting process. It is difficult to enforce, but when it's in a permit, it is part of a public education. Some towns have special programs with environmental work, with children, and they have them outside, those towns might have more interest than others. So, I look forward to the results of the science study. I hope it will be helpful. But I think that the -- that in the end, the science is strong, the ability of the State to work at the local level is so limited that I expect I will be continuing to advocate for some leeway and authority for towns to take -- to act in this arena.

So, those are my comments. Thank you.

REP. GENTILE: Thank you, Margaret.

Senator Meyer?

SENATOR MEYER: Margaret, thanks for your advocacy. In your opinion, does the dam safety bill cover beaver dams? And if it doesn't cover beaver dams, should we amend it to cover beaver dams?

MARGARET MINER: I'm not an expert on that, so, you'll have to ask someone else. I don't think it does cover beaver dams, but I have heard rules that a dam you can take down sort of by hand without bringing machinery into the water is in a different category than a dam which requires machinery in the water to either repair it or remove it. But you'd have to ask someone else on the beaver dams.

SENATOR MEYER: Okay. From your experience, can you tell the Committee what might be the average cost for the engineering inspection that this bill calls for?

MARGARET MINER: The cost of the inspection that I've seen is under a thousand dollars, between 500 and a thousand. And I hope someone will correct me if I am wrong on that. That seems to be reasonable, but I'm somewhat concerned by the cost of developing an emergency action plan and updating that plan every couple of years. Some of the ongoing costs seem to be rather open-ended. So, I'm concerned about this transition period.

SENATOR MEYER: Thank you, Madam Chair.

REP. GENTILE: Thank you.

Any further questions?

Margaret, thank you.

MARGARET MINER: Thank you.

REP. GENTILE: Paul Brady followed by Dr. Mizens.

PAUL BRADY: Good afternoon, members of the Committee. I'm Paul Brady. I'm the Executive Director for the American Council of Engineering Companies and for the Connecticut Society of Professional Engineers. Came here today to speak in support of H.B. 6441, An Act Concerning Dam Safety. We had some minor corrections or minor changes, proposed changes for some of the wording in the bill, but we're supportive of the issue.

There are thousands of dams in Connecticut, some of which could, if left untended, represent a public safety issue. And as has been explained

late -- previously, there are not only public safety concerns on this, but environmental concerns that I think could be addressed by having the owners of these dams, the property owners maintain and inspect those dams and provide backup for the public safety issues involved in this. So, with that, I'd be happy to answer any questions.

REP. GENTILE: Thank you, Paul.

Any questions?

Thank you, Paul. Oh, I'm sorry. Representative Miller.

REP. MILLER: Thank you, Madam Chair.

Just^d to get a fix on what it costs to inspect a dam, what does some of your companies charge?

PAUL BRADY: I think the -- you know, I asked this question of one of my members and, you know, for the smallest dams, I think the thousand dollars, you know, scale is probably about right. You know, obviously the much larger dams could involve a lot more money, and particularly if there's, you know, designing repairs, doing testing, you know, geotechnical testing, that, you know, that could run into a lot more money than just a thousand dollars.

REP. MILLER: Thank you, Madam Chair.

REP. GENTILE: Thank you.

Thank you, Paul.

PAUL BRADY: Thank you.

REP. GENTILE: Dr. Mizens followed by Greg Foran.

**JOINT
STANDING
COMMITTEE
HEARINGS**

**ENVIRONMENT
PART 2
306 - 642**

2013

something within the whole area of disposal. And we should be careful that we talk about those two things differently in terms of education and outreach.

And if there are any other questions, I'd be glad to answer them.

REP. GENTILE: Thank you, Anita. Betsy Gara.

BETSY GARA: Good afternoon, my name is Betsy Gara, and I'm the Executive Director of the Connecticut Waterworks Association. And I'm here today to support Act 6439, AN ACT CONCERNING THE DISPOSAL AND COLLECTION OF UNUSED MEDICATION. As stewards of state's water resources, our members are committed to protecting both the safety and the purity of our public water supplies. So we've been paying a lot of attention to the recent studies involving the effect of pharmaceuticals on both water quality and waste water. And there have been a lot of studies in this area, in fact, in January, the USEPA and three other state agencies have embarked on a coordinated research effort to start to look at the pharmaceuticals and sources of drinking water, obtaining occurrence, and health effects, and so forth.

HB6441

So we are monitoring that. I think it is important to note, however, that in Connecticut we have one of two states that does not permit discharges from waste water treatment plants into public water supply watersheds. So our drinking water quality is, in fact, in a much better position relative to pharmaceuticals than any other state in the country.

But again, we do support efforts to collect and safely dispose of these pharmaceuticals.

I do want to also touch on another bill, House

Bill 6441 AN ACT CONCERNING DAM SAFETY. We do support this bill. It's based on successful programs in Massachusetts and New Jersey, which required dams to be inspected and repaired on a regular basis by licensed, professional engineers. This is very important to the safety of Connecticut's public water supplies.

I do want to mention, we were talking about this bill, another issue relative to safety came up, and it's been an increasing problem, where we have certain kinds of contractors, like landscape contractors, paving contractors, pooling, that are throwing hoses into reservoirs or throwing hoses into hydrants and illegally withdrawing water supplies.

This creates a contamination issue because they don't use back flow prevention devices and so and either some potential for contamination from chemicals or pesticides or fertilizers that these contractors are using. So we are, if you are interested in protecting safety, this may be another area that you want to look at. So we urge your support for that issue. Thank you.

REP. GENTILE: Thank you, Betsy. Any questions? Tim Phelan followed by Julie Goodman.

TIM PHELAN: Good afternoon Representative Gentile, Representative Meyer, and other Members of the Environment Committee. My name is Tim Phelan. I'm the President of the Connecticut Merchant's Association. CRMA is a statewide trade association representing retailers throughout Connecticut. Our membership includes some of the world's largest retailers, as well as the state's mainstream merchants.

I'm here today before you to testify in opposition to House bill -- Senate Bill 16, I'm sorry, AN ACT REQUIRING LABELING OF FOOD AND

**JOINT
STANDING
COMMITTEE
HEARINGS**

**ENVIRONMENT
PART 5
1323 - 1665**

2013

**Testimony of GDF SUEZ Energy North America regarding Raised Bill No. 6441
An Act Concerning the Dam Safety Program**

GDF SUEZ Energy North America (GDF SUEZ NA) is the owner of FirstLight Power Resources, Inc. (FirstLight), which owns or operates approximately 1,500 MWs of hydro-powered generating capacity in New England. FirstLight's Connecticut fleet includes 10 hydroelectric facilities and their associated dams and generators. In total, FirstLight operates 30 hydroelectric generators in the state.

The Federal Power Act authorizes the Federal Energy Regulatory Commission (FERC) to regulate non-federal hydroelectric projects. Six of our company's ten facilities meet these criteria and are licensed by the FERC. Included in the FERC regulatory mandate are specific requirements for protecting non-power resources including fish and wildlife habitat, irrigation, water supply, recreation, flood control, and water quality.

FERC retains jurisdiction over the safety of its licensed facilities and as such Raised Bill No. 6441 does not have any impact on these facilities. The remaining four facilities in Connecticut are currently subject to State inspection. Two of the projects have operating fish passage systems that are subject to National Fish and Wildlife Service as well as CTDEEP oversight. FirstLight works with the CTDEEP and these agencies on an on-going basis to improve the passage of fish and eels at these plants.

It is important to note the provisions of Raised Bill No. 6441 mirrors to a major extent the inspection requirements of the FERC. For instance, FirstLight already must obtain permission from FERC to alter, rebuild, repair or remove licensed dams in their jurisdiction. FirstLight's dams are inspected by the FERC annually. FirstLight also performs certain other dam inspections with its own staff. These inspections are then certified by independent professional engineers and reviewed by FERC.

We also maintain and regularly update Emergency Management Plans (EAPs). These plans include input from local stakeholders, including the State Office of Emergency Management. As required by FERC regulations, FirstLight conducted a major Functional Exercise this year that simulated a major breach of one of the FirstLight dams. This exercise was attended by state and local emergency management personnel within the affected areas. The exercise was observed and critiqued by the FERC.

We appreciate the Committee's efforts to improve dam safety in Connecticut and would be happy to continue to work with the Committee as well as the DEEP to achieve that goal.

Thank you.

Submitted by:

Charles Burnham
Manager, Government & Regulatory Affairs
GDF SUEZ Energy North America
February 25, 2013



Testimony of Roy Merritt, Jr., P.E.
On behalf of the
**The Connecticut Society of Civil Engineers (CSCE) Section of the American
Society of Civil Engineers (ASCE)**

Before the Environment Committee
Regarding

- **HB No. 6441 – AN ACT CONCERNING THE DAM SAFETY PROGRAM**

February 25, 2013

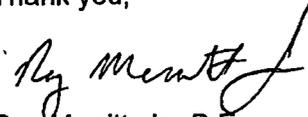
I am Roy Merritt, Jr., and I am a licensed Professional Engineer in the State of Connecticut. I am submitting this written testimony on behalf of the Connecticut Society of Civil Engineers (CSCE) Section of the American Society of Civil Engineers¹ (ASCE), where I serve as Chairman of their Legislative Affairs Committee. CSCE submits this testimony in **support of H.B. No. 6441 – AN ACT CONCERNING THE DAM SAFETY PROGRAM**. This bill would increase the safety of more than 3,000 dams located in Connecticut. The bill assigns responsibility for the inspection, repair, and review of existing dams in the State.

However, CSCE has concerns regarding the onerous and burdensome level risk and liability assigned to the inspecting engineers due to the language proposed in Section 3 of the bill. We offer the following minor suggestion that would clarify and mitigate some liability issues for the engineers inspecting the dams:

In Section 3, CSCE recommends that the last sentence that begins with Line 59 be change to read, "Such sworn statement shall (1) attest that such engineer inspected the work and determined to the best of the engineer's knowledge, information and belief that the dam or like structure is safe within the customary standards of design for such dam or like structure, (2) attest that to the best of the engineer's knowledge, information, and belief that all appurtenance to such dam or like structure were built, repaired, altered or removed in conformance with plans, specifications, and drawings approved by the Commissioner pursuant to a permit for construction or an order issued pursuant to Section 22a402, and (3) bear the engineer's professional engineering seal and signature. In making such attestation, if the inspecting engineer was not responsible for the design of such dam or like structure, the inspecting engineer shall be entitled to rely upon the design prepared by the designing engineer and shall not have to independently confirm said design."

The Connecticut Society of Civil Engineers looks forward to working with the Connecticut Legislature on this most important issue.

Thank you,



Roy Merritt, Jr., P.E.

Chairman, Legislative Affairs Committee

Connecticut Society of Civil Engineers Section of the American Society of Civil Engineers

¹ ASCE was founded in 1852 and is the oldest national civil engineering organization. It represents over 140,000 civil engineers (1,650 in Connecticut) in private practice, government, industry and academia who are dedicated to the advancement of the science and the profession of civil engineering. ASCE is a non-profit educational and professional society organized under Part 1.501(c)(3) of the Internal Revenue Code. CSCE is a 100% volunteer organization.



Testimony
Elizabeth Gara
Executive Director
Connecticut Water Works Association (CWVA)
Before the
Environment Committee
February 25, 2013

Re: HB-6441 - AN ACT CONCERNING THE DAM SAFETY PROGRAM

CWVA supports **HB-6441, An Act Concerning Dam Safety**, to protect the state's dam infrastructure that provides critical agricultural, recreational, environmental and flood control benefits.

The proposal is based on dam safety programs in Massachusetts and New Jersey which require dam owners to use licensed professional engineers to inspect and repair dams to protect the safety of individuals, businesses and wildlife.

Connecticut's water utilities are already required to inspect dams on a regular basis either using in-house licensed engineers, contracting with outside licensed engineers or a combination of both. However, many privately owned dams are not properly inspected and maintained. In addition, water utilities are responsible for developing and implementing an Emergency Operation Plan tailored to the specific dam to mitigate any potential for dam failure.

In 2008, the state Department of Energy and Environmental Protection (DEEP) inspected 80 dams and found that 36% required *significant* repairs and that all dams were deficient in some respect. By requiring dam owners - who are already liable for any damage stemming from a dam failure - to inspect and repair dams, HB-6441 will help address these concerns

Connecticut water utilities are highly committed to measures to protect the safety of Connecticut's water supplies and therefore urge your support for HB-6441. Another issue which threatens the safety of Connecticut's public water supplies has to do with illegal withdrawals from fire hydrants or reservoirs, which is a growing problem. Certain types of contractors, such as construction and paving contractors, landscapers, pool companies and hydroseeders are attaching hoses directly to fire hydrants or throwing hoses into reservoirs to draw water for commercial purposes. This can easily contaminate drinking water supplies because they are not using clean equipment or back flow prevention devices to protect against contamination from chemicals, fertilizers or pesticides used in the course of their business.

As recognized by the Department of Public Health, such unauthorized connections or withdrawals have the potential to contaminate public water supplies relied upon by thousands of Connecticut citizens. In addition, such illegal use may further jeopardize public health and safety by damaging pipes, hydrants and other equipment required for safe public drinking water and firefighting purposes

Under current law, theft of utility service is a misdemeanor. However, law enforcement is hesitant to issue citations because of general lack of awareness of the potential public safety consequences of such unauthorized connections and the criminal nature of misdemeanor enforcement, which involves the need for criminal prosecution for each offense. Legislation creating a more effective deterrent to this behavior would better protect Connecticut's drinking water supplies.

CWVA therefore requests your consideration of language to address this issue



TESTIMONY FOR THE ENVIRONMENT COMMITTEE
PUBLIC HEARING, FEBRUARY 25, 2013
From
RIVERS ALLIANCE OF CONNECTICUT

SB 914 SB 916
SB 917 HB 6440
HB 6439

To: The Chairmen: Sen. Ed Meyer and Rep. Linda Gentile
And to the Members of the Committee

Rivers Alliance of Connecticut is the statewide, non-profit coalition of river organizations, individuals, and businesses formed to protect and enhance Connecticut's waters by promoting sound water policies, uniting and strengthening the state's many river groups, and educating the public about the importance of water stewardship. Our 450 members include almost all of the state's river and watershed conservation groups, representing many thousand Connecticut residents.

HB 6441 AAC The Dam Safety Program. We support this bill, but request a few changes that we believe will make the program more practical.

In Section 5, we are concerned that the owner of a hazardous dam is required to "develop and implement an emergency action plan"; the plan must be filed with DEEP and the chief executive officer of any municipality that would potentially be affected in an emergency; and the plan must be updated every two years. The exact requirements and cost are not clear (regulations are to be written). But clearly action plans that might affect several or many communities should be developed and coordinated by a government entity. Maybe the owner should be required to submit whatever information is needed for writing and implementing the plan.

Section 5 (1) requires DEEP to develop "criteria and standards for inundation studies and inundation zone mapping." We have urged DEEP to develop a uniform set of standards for extreme storm events for use at all levels of government. One approach in Connecticut might be to use storm data developed by the Natural Resources Conservation Service. The standards should probably be tied to a rolling five-year (or ten-year) average of actual flood events.

In Section 6 (a), we love the dam-removal language.

In Section 6 (d), we strongly urge reinstating the requirement that local commissions receive notice of the work and have the right to comment.

SB 914 AAC The Application of Pesticides at Municipal Parks. We strongly support this bill. Think of families, including pregnant women and toddlers, out for a picnic in park. Think of *Le déjeuner sur l'herbe*. Think of touch-football games. Think of robins in the spring. Think of the groundwater well that may be right below the turf or adjacent parking lot. (See science references below.)

SB 916 AA Authorizing Civil Penalties for the Faulty, Careless or Negligent Application of Pesticides. Support.

SB 917 AAC The Use of Certain Microbial and Biochemical Pesticides and Grub Control Products on School Grounds. Support, on the basis of assurance from Jerry Silbert, M.D., of the Watershed Partnership that the proposed anti-grub products are consistent with standards for safe natural turf care.

HB 6440, AAC Municipalities and the Application of Lawn Care Pesticides [includes herbicides]. We strongly support this bill.

Lawn-care pesticides are not needed in order to have an attractive lawn and are counter-indicated for a healthy lawn. These substances are heavily implicated in harm to bird populations, beneficial insects (such as bees), amphibians, aquatic species, and human beings.

Lawn-care pesticides travel, even when applied carefully. They blow in the wind; get into water; get onto shoes, clothes, and bare feet; get on the paws of pets. They end up inside as well as outside.

The history of pesticide use is one long retreat from claims that pesticides are safe. Every pesticide contaminating soil, groundwater, and surface water in Connecticut was at one time pronounced and promoted as safe.

The presence of pesticides in all the nation's rivers and streams (US Geological Survey, 2006) is a major contributor to the die-off of freshwater species; these creatures are in the vanguard of the mass extinction of species now underway in North America and around the world.

DEEP does not have the resources to manage pesticide use in the field, but has been very reluctant to share authority with the local governments elected by the people who are exposed to pesticides. State pre-emption of a town's right to protect itself is totally unreasonable in this case. The only larger public good served is the interest of the pesticide manufacturers, sellers, and applicators. But most of these are already serving customers who want safe choices, and are prepared to serve more. The development of new, safer products is a good thing, economically and environmentally.

ACEC

AMERICAN COUNCIL OF ENGINEERING COMPANIES
of Connecticut

TESTIMONY BEFORE THE ENVIRONMENT COMMITTEE REGARDING HB6441

February 25, 2013

I am Paul W. Brady, Executive Director of the American Council of Engineering Companies of Connecticut (ACEC/CT), representing over 85 engineering firms providing independent engineering services to the public and private sector. I also represent the Connecticut Society of Professional Engineers, representing over 250 licensed Professional Engineers in the state.

On behalf of both organizations, I would like to speak in support of HB6441, AN ACT CONCERNING THE DAM SAFETY PROGRAM.

This bill would increase the safety of over 3,000 dams here in Connecticut. It would affix responsibility for inspection, repair and review of these critical structures.

We have one minor suggestion that will clarify some liability issues:

In section 3, we recommend that the last sentence that begins on line 59 be changed to read, "Such sworn statement shall (1) attest that such engineer inspected the work and determined to the best of the engineer's knowledge, information and belief that the dam or like structure to be safe within the parameters of the design of such dam or like structure, (2) attest that to the best of the engineer's knowledge, information and belief that all appurtenances to such dam or like structure were built, repaired, altered or removed in conformance with plans, specifications and drawings approved by the commissioner pursuant to a permit for construction or an order issued pursuant to section 22a402, and (3) bear the engineer's professional seal. In making such attestation, if the inspecting engineer was not responsible for the design of such dam or like structure, the inspecting engineer shall be entitled to rely upon the design prepared by the designing engineer and shall not have to independently confirm said design."

Thank you for your consideration and I would be happy to answer any of your questions.

Paul W. Brady, Executive Director
American Council of Engineering Companies of Connecticut (ACEC/CT)
460 Smith Street, Suite K
Middletown CT 06457
Phone (860) 635-5522
Fax (866) 668-9858
pbrady@ctengineers.org



Box 1162
Weston CT 06883
203-226-4991x113

**Testimony of Sally Harold
Director Migratory Fish Projects
Before the Environment Committee**

February 25, 2013

In Support of H. B. No. 6441 - AAC the Dam Safety Program.

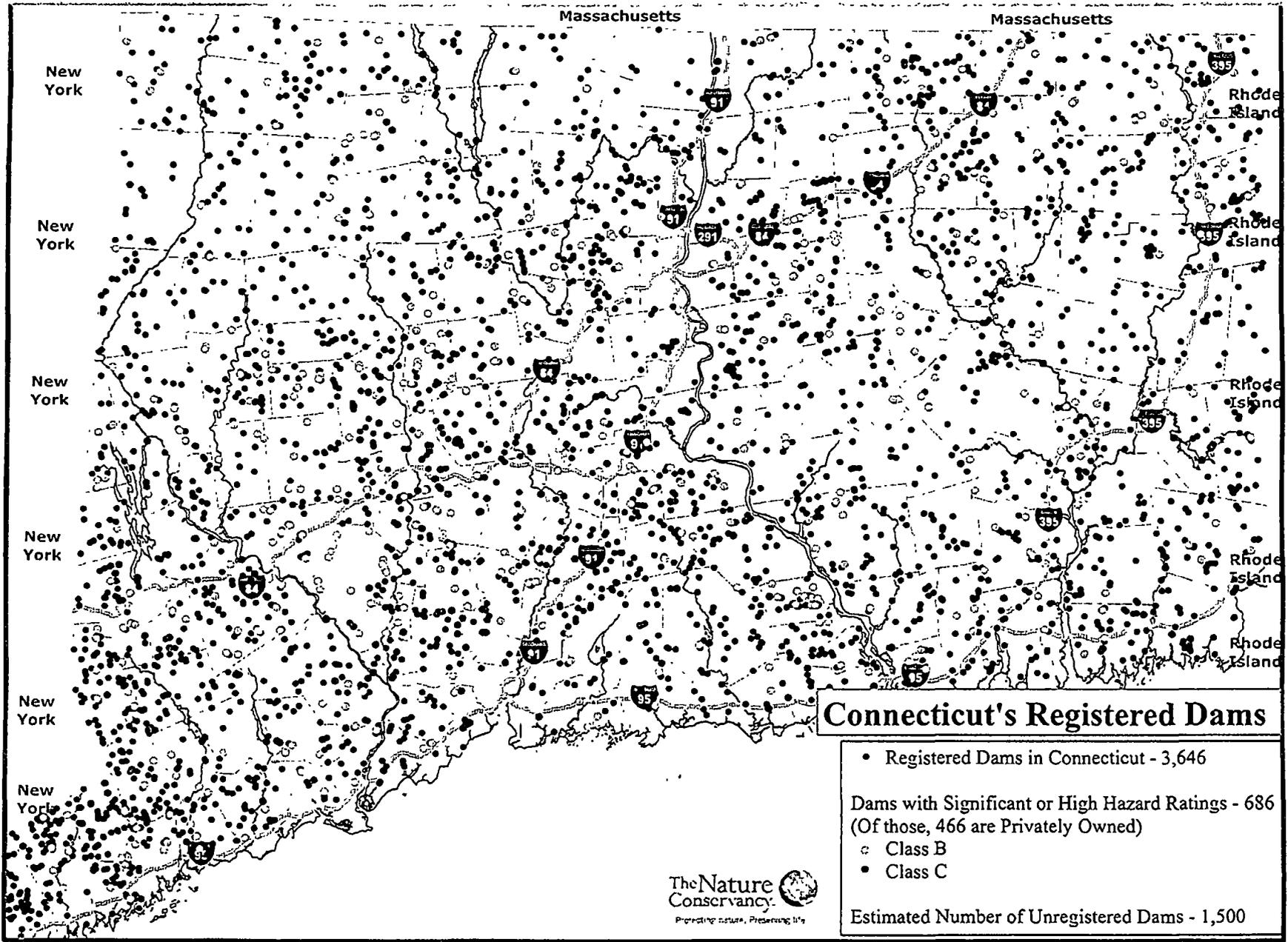
On behalf of The Nature Conservancy's 28,000 members in Connecticut, I am here today to express our support for Bill 6441. This bill proposes transferring the responsibility and costs for inspection of privately-owned dams from the CT DEEP to the dam owners, requiring all dam owners to register their dams with the state and requiring owners of high and significant hazard dams to file Emergency Operation Plans for their dams.

Many dams benefit people by providing impoundments for water supply, electricity generation, and flood control, but the majority of dams in Connecticut no longer serve the purpose for which they were constructed. Where conditions are appropriate, The Nature Conservancy supports dam removal. Dams disrupt natural processes in rivers and prevent aquatic species from moving freely up and downstream. Over time, the presence of dams in our waterways has diminished water quality, altered habitat, affected thermal changes in the water, increased genetic isolation of aquatic species and affected the health of species inhabiting these important natural systems. For riverine migratory species, these unnatural barriers increase predation pressure as well as delays in migration. Dams prevent movement between feeding and breeding zones for fish, both resident and migratory. Selective dam removal, thoughtfully carried out, is one of the most cost-effective fisheries and river restoration methods available. The proposed bill would help to streamline the permitting process for dam removal.

Connecticut has over 5,000 dams and a requirement that every dam be registered. Over 3,000 have been registered and over 1,500 of those are regulated by the state due to the degree of damage that could result if they failed. More than 500 of these dams (about 17%) are classified as Significant Hazard or High Hazard dams meaning their failure could cause loss of life, damage to habitable structures, residences, roadways and railroads, and significant economic loss. Dams are weakened and become prone to failure by flooding, freezing and thawing, and old age. Therefore dams must be inspected at regular intervals, maintained and repaired, alternatively, where possible dam removal should be considered as a viable alternative to continual maintenance. The fairest way to prevent failure is to hold owners of dams responsible for the cost of inspection and accountable when their dams are not maintained in safe condition. Many owners are unaware of their responsibilities and liabilities as a dam owner and even more are unaware of the impact dams have on streams. The approval of Bill 6441 would raise awareness of the responsibilities associated with dam ownership and improve public safety by ensuring that more dams are inspected more frequently.

In order to meet the current schedule of inspections (once every 2 years for high hazard dams), CT DEEP's one dam safety inspector would have to inspect more than 450 dams each year. Since the Dam Safety Program is also responsible for the state's regulatory program and inspection of the 265 state-owned dams, many dams that should be inspected each year are not. The program is currently able to undertake approximately 100 regulatory dam inspections each year. Transferring the responsibility of dam inspections from the state to dam owners and privately-hired engineers will result in dams being inspected according to schedule, (every two years for high hazard, every five years for significant hazard, seven years for moderate hazard and every ten years for low hazard). It's likely that some owners who are obligated to pay an engineer to inspect their dams may decide to pursue removal as a desirable alternative. And those dams that remain in our rivers will be safer.

We are experiencing more severe and frequent storms in Connecticut so regular maintenance and inspection of dams is critical. The Dam Safety Unit of the CT DEEP is concerned with public safety around dams. Dam failures can be deadly and costly. In 1963 the Spaulding Pond dam in Norwich failed causing six deaths and six million dollars in damage. The 1982 failure of the Bushy Hill dam in Deep River caused an estimated \$50 million in damages. Emergency Operating Plans for high and significant hazard dams will serve as a management tool to reduce public risk during storm events. Evacuations of neighborhoods downstream of a high hazard dam will be based on topography and a dam's impoundment size rather than fear alone.





American Rivers
Rivers Connect Us

**Testimony of Amy Singler
Associate Director of River Restoration
American Rivers**

Before the Environment Committee

February 25, 2013

In Support of H. B. No. 6441: An Act Concerning the Dam Safety Program

Good afternoon. Thank you for the opportunity to comment on Bill No. 6441: An Act Concerning the Dam Safety Program. My name is Amy Singler, Associate Director of American Rivers' River Restoration Program. We are a national conservation organization dedicated to protecting and restoring rivers for the benefit of people, fish, and wildlife. Our Northeast office works on river restoration projects in Connecticut and in the other five New England states. I work on river restoration and dam-related issues. Our Northeast staff are working with partners on over 50 or so dam removals that are currently being designed, several of which are in Connecticut.

American Rivers strongly supports this Bill because it will dramatically improve dam safety in Connecticut by ensuring that more of the state's outdated and deteriorating dams have safety inspections and that dam owners follow up on the results of those inspections by repairing and maintaining their dams.

I spend a lot of time working around many of the approximately 5,500 dams in Connecticut as part of my work and can attest to the shockingly poor condition of so many of these structures. My observation is supported by a summary of the Dam Safety Office's 2008 inspections in which they inspected 80 private dams and found that 100% needed some form of maintenance, 44% were in poor condition and 36% were in need of significant repairs.

Despite the large number of the dams in the state, Connecticut's Dam Safety Office has only one full-time dam inspector. With the extraordinarily dedicated work of that lone inspector, the state is able to inspect around 100 dams each year, or less than 2% of the dams in the state.

This Bill will fix that problem by requiring dam owners to hire qualified engineers to inspect their dams. Requiring dam owners to take more responsibility makes sense because the majority of dams do not provide public benefits and therefore should not be subsidized by public dollars. The Bill would also take the fundamental step of requiring dam owners to register their dams with the state to allow the state to better inventory dams and dam ownership.

Increasing the number of dam inspections is critical because public safety incidents are occurring over and over again in Connecticut because of aging dams. Some examples include:

- In March 2010, the near failure of a dam in Stonington forced the evacuation of downstream residents. It was the second time in 3 years that those same residents had to evacuate their homes because of that same dam. That dam was removed in 2012, permanently eliminating the safety hazard.

- During flooding in 1982, 17 Connecticut dams failed and another 31 were severely damaged. Losses due to dam failures totaled an estimated \$70 million. That would be \$156 million in today's dollars, and dams are in worse condition now than they were then.
- During the October 2005 flooding, 30 dams failed or were significantly damaged in the state.

The one thing that most of these dams had in common, besides their age and poor condition, is that they were no longer serving the purpose that they were built to provide. Many, perhaps most, of the more than 5,500 dams in the state were built decades to centuries ago to power mills. The mill operations have long since closed and the businesses have moved on, but the dams remain. Unless they are well maintained, their condition only gets worse every year. The most cost-effective and permanent way to deal with unsafe dams is to remove them.

For that reason, this Bill provides more than public safety improvements. It will also result in tremendous environmental benefits.

Dams cause some of the most harmful impacts to fish and wildlife of any human action in rivers. Dams block the necessary ability of fish to move; they degrade water quality by raising water temperature and thereby lowering water oxygen; and they drown the living space of creatures that normally live in flowing water.

We have seen throughout the northeast that where dam safety is more effectively enforced, dam owners choose to remove dams rather than let them deteriorate. To assist with dam removal, American Rivers strongly supports the sections of the bill that will allow for permit streamlining in the cases of dam removal (22a-403 and 22a-411). This type of change will further encourage owners to take responsible steps for public safety.

More than 1,000 dams have been removed in the United States. More than 80 of those dam removals were in the New England states in the last ten years. We have seen in case after case that once a dam is removed, native fish populations rebound; water quality improves; habitat improves; AND there is no longer a safety hazard from failure; there is no longer a safety hazard to boaters and kids playing on or around dams; and there is no longer any maintenance need or liability for dam owners. Removing dams presents a remarkable win-win-win scenario, for dam owner liability, for public safety, and for the environment.

Connecticut would not be alone in enacting the changes put forth in this Bill. Massachusetts enacted very similar changes in 2006 after the near failure of a dam forced the evacuation of 2,000 people from downtown Taunton. Massachusetts now requires that dam owners complete their own inspections and submit inspection reports to the state. The change has had tremendous benefits. Dam owners are now taking responsibility for repairing and maintaining their dams, and many dam owners have chosen to remove their dams as a result. Eighteen dams have been removed in Massachusetts in just the last five years. Over 30 more dam removals are currently in design or permitting and will be removed in the next 3 years.

It is with these issues in mind that American Rivers strongly supports the proposed language in this Bill. We have some specific comments on some of the Bill's details.

Suggested changes to Bill language

- As the Bill currently stands there is limited incentive for dam owners to register their dams or to complete necessary safety repairs identified during a dam inspection. American Rivers recommends establishing clear fines for noncompliance. In addition, effective changes to dam

safety are not possible without providing the Dam Safety Office with the tools to better enforce compliance. American Rivers suggests including language to specify minimum daily fines for noncompliance and better allow DEEP to pursue noncompliant dam owners through an administrative order. Fines should be issued for any noncompliance with the regulations including, but not limited to: failure to register a dam, failure to complete necessary repairs, or failure to submit an Emergency Action Plan.

- American Rivers recommends an additional change to the existing legislation: Dam removal should be provided as an equal option along with dam repair in more places in section 22a-402(a). Everywhere that the language requires an owner to “undertake repairs” language should be added such that it states “undertake repairs or remove the dam”. Our justification for this is that dam removal is often less expensive than dam repair, but many dam owners may not consider removal as an option because they are unfamiliar with removal. Including removal language in the legislation in more places will raise the possibility for dam owners as another option to comply with dam safety.
- Hazard “creep” is a significant concern: In the current dam safety regulations, the hazard classification of a dam is reassessed during periodic dam inspections. However, with current dam safety staffing, only more hazardous dams are actually inspected. In the meanwhile, additional development downstream of uninspected dams may be occurring. Those dams need to be assigned a higher hazard classification, but are not currently evaluated. American Rivers recommends that the Bill clarify that hazard classification will be updated by the private inspectors hired by dam owners when their dams are inspected and that hazard classification is periodically reassessed for dams that are otherwise exempt from regular inspections.

Thank you for the opportunity to address these issues. Please feel free to contact me to discuss this Bill or to discuss American Rivers’ experiences with removing dams. I can be contacted at 413-584-2183 or asingler@americanrivers.org



**Testimony of Connecticut Fund for the Environment
Before the Environment Committee**

**In support of Raised Bill No. 6441, AN ACT CONCERNING THE DAM SAFETY
PROGRAM**

Submitted by Gwen Macdonald, Director of Habitat Restoration
Monday February 25, 2013

Save the Sound, a program of Connecticut Fund for the Environment, ("CFE") is Connecticut's non-profit environmental advocate with over 6,500 members statewide. For over thirty years, CFE has fought to protect, preserve and restore Connecticut's health and environment.

CFE asks the Environment Committee to favorably report Raised Bill No. 6441, An Act Concerning the Dam Safety Program, out of the Committee. CFE sees this bill as an important step to hold owners of dams accountable for the condition of their dams and to provide the Department Energy and Environmental Protection's (DEEP) Dam Safety Program with the tools necessary to enforce existing regulations.

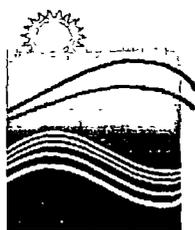
There are approximately 7000 river miles in Connecticut and over 5000 dams. The presence of dams across the New England landscape is part of our history, but in many cases dams no longer serve the purpose for which they were constructed. In these cases, each remnant dam is a barrier to natural riverine habitat connectivity and over time can cause habitat fragmentation, increase water temperature, decrease water quality, and can adversely affect the health of the river system and species in it. Migratory species such as American eel, river herring, American shad, and Atlantic salmon have seen populations decline in part because the species cannot travel between their spawning and feeding habitats. This year the river herring and American eel were nominated as candidates for the federal endangered species list. The listing of key Connecticut fish species on the Endangered Species List is a message we cannot ignore. River restoration through the removal of derelict dams is an effective way to restore habitat for these and other threatened aquatic species. In 2012, over 50 stream miles were reconnected to Long Island Sound through the removal of barriers to fish passage, which has allowed hundreds of the thousands of fish to return to their historic spawning grounds.

In 2008 DEEP's Dam Safety Program inspected 80 dams. Of the 80 dams inspected, 36 percent were in need of repairs significant enough to require a permit and 100 percent were in need of maintenance. In order to comply with current regulation, Dam Safety would need to inspect approximately 450 dams annually. With current staffing, it is impossible for Dam Safety to both inspect the required number of dams and to take action against dam owners who do not

properly maintain their dams. These derelict dams pose a hazard to riverine wildlife and to human communities downstream, should the dam breach catastrophically. Transferring the burden of dam inspections from the state to the dam owner will not only allow the existing Dam Safety staff to better enforce maintenance orders, it will allow dam owners to properly evaluate the cost/benefit of keeping a dam on their property.

With the frequency and intensity of severe storms on the rise, inspecting and enforcing maintenance actions on dams is all the more critical. Towns throughout Connecticut are identifying ways to make their communities more resilient to future storms and sea level rise. One way to reduce risk to coastal communities is to remove derelict dams. Section 6 of this bill proposes new language under Sec 22a-411 of the statute that would allow the commissioner to issue a general permit for "dam removal that improves fish passage or provides other ecological benefits." This will reduce the time and cost of permitting to the dam owner, which may lead to more dams being removed from the landscape for fewer dollars in fewer years. We believe fewer dams on rivers will lead to healthier streams and safer coastal communities.

CFE sees Raised Bill No. 6441, An Act Concerning the Dam Safety Program, as important to strengthening the enforcement capabilities of the Dam Safety Program so they may better defend the public safety of Connecticut residents and the environment. Holding dam owners responsible for inspecting their dam is a cost-effective way to evaluate potential hazards on private property and raise awareness about maintenance and removal options. We look forward to working with DEEP and the Environment Committee to make this a reality.



Connecticut Department of
**ENERGY &
ENVIRONMENTAL
PROTECTION**

**STATE OF CONNECTICUT
DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION**

Public Hearing – February 25, 2013
Environment Committee

Testimony Submitted by Commissioner Daniel Esty
Presented By Deputy Commissioner Macky McCleary

Raised House Bill No. 6441 – AN ACT CONCERNING THE DAM SAFETY PROGRAM

Thank you for the opportunity to present testimony regarding Raised House Bill No. 6441 - An Act Concerning the Dam Safety Program. The Department of Energy and Environmental Protection (DEEP) offers the following testimony.

We appreciate the Committee's willingness to raise this bill at the request of the DEEP. This proposal, which we strongly support, would result in an increase in the number of safe dams in Connecticut.

Dams are an integral part of our state's infrastructure as they provide important agricultural, recreational, environmental, and flood control benefits. However, these dams also pose public safety and environmental risks. Although the precise total number of dams in Connecticut is unknown, DEEP estimates that there are 5,500 dams – and of these approximately 3,000 are regulated by DEEP because they have some degree of hazard should they fail. Approximately 72% of dams are privately owned. DEEP is responsible for the maintenance and repair of approximately 260 state-owned dams.

Under current law, DEEP Dam Safety Section staff are responsible for inspection of both privately-owned and state-owned dams. At this time, staffing is inadequate to meet the regulatory requirements for periodic state inspection of the approximately 3,000 regulated dams. DEEP currently prioritizes inspections of those dams which pose the greatest potential threat to downstream persons and properties.

There are numerous qualified consulting engineers in Connecticut capable of inspecting privately owned dams at a reasonable cost. A dam owner stewardship and inspection approach is consistent with methods used in other states, such as Massachusetts and New Jersey, and will drastically improve dam safety in Connecticut by requiring dam owners to periodically inspect their dams using qualified consulting civil engineers and to file such reports with DEEP. Such an approach would increase the number of annual dam inspections, minimize the need for state staffing, encourage free market pricing and competition among engineers seeking to perform inspections, and reduce the threat to those living downstream of dams within inundation zones. State follow-up will be needed to verify submitted

inspection reports, respond to complaints from the public, undertake emergency inspections, and meet the inspection requirements of DEEP-owned dams. DEEP Dam Safety staff would also undertake the oversight of remedial repairs that would be identified as a result of the increased number of inspections.

In closing, by requiring dam owners to periodically inspect their dams using qualified consulting civil engineers, DEEP staff resources will be available to effectively implement and manage DEEP's dam safety program. This in turn will result in the improved management and safety of dams throughout Connecticut, promoting public safety for our state's citizens.

Thank you for the opportunity to present testimony on this proposal. If you should require any additional information, please contact DEEP's legislative liaison, Robert LaFrance at (860) 424-3401 or Robert.LaFrance@ct.gov.