



**HOME BUILDERS ASSOCIATION OF CONNECTICUT, INC.**  
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*Your Home  
Is Our  
Business*

January 18, 2010

Paul E. Stacey  
Department of Environmental Protection  
Bureau of Water Protection and Land Reuse  
Planning & Standards Division  
79 Elm Street  
Hartford, CT 06106-5127

Dear Mr. Stacey,

Thank you for the opportunity to comment on the state Department of Environmental Protection's (DEP) proposed stream flow regulations, RCRA sections 26-141b-1 to 26-141b-9, inclusive.

The Home Builders Association of Connecticut (HBACT) represents approximately 1,100 member firms throughout the state, employing tens of thousands of CT's citizens, who work in all aspects of residential development, home construction and remodeling. We estimate that our members build 70% to 80% of all new single-family and multifamily housing units across CT.

The HBACT strongly opposes the proposed stream flow regulations for the following reasons. The proposed regulations will severely limit the amount of public water supplies available to support economic and housing growth in Connecticut by mandating releases from the state's reservoirs and imposing strict limitations on groundwater withdrawals. In discussing the potential impact of the regulations with public water suppliers in various regions, we are very concerned that the release requirements and groundwater withdrawal limitations will call into question whether there are sufficient water supplies to meet the existing needs of residents and businesses. These areas could be broad and extensive, covering large portions of the state.

These regions also face potential moratoriums on new service connections which will unfairly limit – or halt – construction and renovations in these areas. Home builders already face numerous obstacles in building homes for Connecticut families. Home builders are confronted with a cumbersome, confusing and costly regulatory system when attempting to construct a home. The draft stream flow regulations will exacerbate this problem by adding yet another hurdle and more cost to the construction process.

We understand that the new reservoir release requirements and groundwater withdrawal restrictions are not about protecting water supply or water quality for human consumption, but, rather, are about maintaining sufficient stream flows in our waterways to protect the state's fisheries. While this goal is laudable, the regulations must be balanced in a way that does not undermine the public's health, safety and economic growth. It is also our understanding that less than 1% of all of the state's rivers and streams have been identified as being flow impaired. Despite this, the regulations impose stringent requirements across the state on water companies and other water users to release certain quantities of water during various "bioperiods" designated

by DEP. The regulations also impose strict limitations on groundwater withdrawals across the state that are simply not relevant to the impaired flows DEP intends to address.

Although the regulations allow water users to seek a variance or enter into a flow management compact, by their nature, seeking such variances or compacts will be lengthy, cumbersome and costly processes that will fail to provide water users with any reasonable “off-ramp” from the regulations. The existence of these regulations and variance process alone will create more uncertainty that will drive more investment out of Connecticut. We understand some advocates argue that water users can obtain a permit from DEP for a water supply interconnection or can develop a new source, yet these avenues are also extremely costly and time-consuming.

In addition, homeowners and builders will see large increases in their water rates because compliance with the regulations will require costly changes to dams and other infrastructure or require the development of new water supplies. This will be one more increase in costs that homeowners and builders will have to shoulder in order to live and raise a family in Connecticut.

We also question whether the science exists to support the required reservoir releases and groundwater withdrawal restrictions and how these actions will benefit or not harm the fisheries DEP intends to protect. Have studies been done to determine whether released waters are at an appropriate temperature or water quality that will not harm such fisheries?

If the goal is to protect fisheries and other aquatic life in flow impaired streams – again, a laudable goal – and the extent of these problems currently is estimated to be less than 1% of all rivers and streams in the state, we urge the agency to reject the proposed broad-brush regulations and take a more logical, balanced path toward identifying and fixing the real problem. The agency should first identify and document the full extent of flow impaired streams and waterways. Then, on those watercourses only, take appropriate action to protect the fisheries in those specific waterways. We assert that, potentially, a more rational approach to protecting fisheries is to ban fishing in impacted watercourses, to allow fish populations to recover and adapt in flow impaired streams, and we request DEP to consider this alternative regulatory approach.

We therefore urge the department to reject the proposed regulations and, instead, undertake an analysis of those streams that may have flow impairment issues. Once an analysis of those streams is completed, DEP should use the analysis and work with all stakeholders to develop a balanced approach to protecting impacted fisheries. Given the limited nature of the problem and the state’s mounting financial difficulties this approach is certainly more reasonable than proceeding with costly, burdensome regulations that will jeopardize our economy. In short, we strongly urge DEP to regulate the problem, not over-regulate the economy.

Again, thank you for the opportunity to comment.

Sincerely,

William H. Ethier, CAE  
Chief Executive Officer