

The Norwalk River Watershed Association (NRWA) respectfully submits the following comments in support of the CT DEEP proposed regulation concerning water diversion exemptions, tracking number: PR2016-053. NRWA supports the DEEP proposal to eliminate the exemption from the Connecticut Water Diversion Policy Act for use of registered water throughout an “exclusive service area.” NRWA supports permitting for diversion of water in exclusive service areas in order to ensure that environmental impact is evaluated as part of expanding state water use planning.

NRWA is a not-for-profit membership organization whose mission is to improve the water quality and fish and wildlife habitats of the Norwalk River watershed; to restore the riverbanks, meadows and forests; to encourage recreational use of the river, the surrounding open space and its trails; and to promote research, legislative advocacy, education, cooperation, and action on the part of the stakeholders in the seven watershed towns in CT (Ridgefield, Redding, Wilton, New Canaan, Weston, and Norwalk) and NY (Lewisboro).

It is the position of the NRWA that it is unacceptable that approximately 75 percent of the volume of the state’s water supply is taken through a registration, with no permitting or environmental review required. We are also very concerned that approximately 84 percent of allowed water takings for water supply are done through registrations, not permits, and that there is therefore no environmental review.

NRWA supports eliminating this exemption in part because in our watershed, we continue to experience the extreme effects of diversion from the Comstock Brook, the second largest tributary to the Norwalk River. The South Norwalk Electric and Water Company is registered to remove up to 13 million gallons per day from this stream which leaves it completely dry most summers. As Trout Unlimited Mianus Chapter reports in its Winter 2015 *River Keeper*, “For this native brook trout stream, this annual de-watering means two things:

- 1) The brook trout lose more than one mile of important habitat that might improve their chances of survival as climate change impacts the region.
- 2) The Norwalk River is placed at added stress in the summer as the cool, clean waters of Comstock Brook no longer reach the Norwalk to help lower temperatures and provide a refuge for the wild brown trout in the stream.”

Comstock Brook is vital to our watershed because it is a headwater stream. In its report “The Importance of Headwater Streams” the West Virginia DEP reports, “The scientific literature unequivocally demonstrates that streams...exert a strong influence on the integrity of downstream waters. All tributary streams...are physically, chemically, and biologically connected to downstream rivers via channels and associated alluvial deposits where water and other materials are concentrated, mixed, transformed, and transported.” Headwaters like the Comstock Brook are vital because they:

**1. Help maintain baseflow in rivers** by “conveying water into local storage compartments such as ponds, shallow aquifers, or stream banks, and into regional and alluvial aquifers; these local storage compartments are important sources of water for maintaining baseflow in rivers (WV DEP Report).”

**2. Support healthy riverbanks and prevent flooding.** NRWA suspects that the diversion of the Comstock has contributed to the failure of a number of riverbank trees as the lack of water has made them more susceptible to high winds and disease. The missing trees contribute to erosion, flooding, the growth of invasive plant species and the loss of natural wildlife habitat.

**3. Provide a vital link in support of aquatic life.** As the WV DEP reports, “Streams are biologically connected to downstream waters by the dispersal and migration of aquatic and semiaquatic organisms, including fish, amphibians, plants, microorganisms, and invertebrates, that use both upstream and downstream habitats during one or more stages of their life cycles, or provide food resources to downstream communities.”

**4. Help protect water quality.** Headwaters facilitate fundamental biogeochemical processes by connecting channels and shallow ground water with other landscape elements. “Physical, chemical, and biological

connections between streams and downstream waters interact via integrative processes such as nutrient spiraling, in which stream communities assimilate and chemically transform large quantities of nitrogen and other nutrients that otherwise would be transported directly downstream, increasing nutrient loads and associated impairments due to excess nutrients in downstream waters (WV DEP).”

The drought this year has compounded the problems caused by diversion of the Comstock. Permission to drain Comstock Brook was granted by city charter in 1874 and “grandfathered in” with registration in 1982. The result is that our watershed has no legal recourse for protecting this vital brook.

At the very least, NRWA supports the state protections that ensure a utility shall no longer be exempt from environmental permitting when it moves water into newly expanding and merged exclusive service areas. NRWA believes environmental impact evaluations should be part of state water planning at all levels. While NRWA recognizes the vital importance of protecting water sources for public utilities, we feel that it is in the best interest of the citizens of Connecticut to consider the sustainability of water planning with regard to the health of our rivers, streams, wetlands and aquatic life. Every plan should be a careful balance between the growing demand of water utilities and the minimum streamflow requirements of waterways.

We see the DEEP proposed regulation as essential to the protection of state waterways from the ever expanding claims by water utilities for areas in which they can divert large quantities of water without any environmental review.

Please help us protect our watershed.

Sincerely,

Louise Washer  
President, Norwalk River Watershed Association