

To: Connecticut Department of Energy and Environmental Protection
 Bureau of Water Protection and Land Reuse
 Planning and Standards Division
 79 Elm Street
 Hartford, CT 06106-5127

The Town of Colchester has the following concerns based upon the information provided by DEEP in regard to the proposed stream flow categories that the are located within the Town of Colchester and in general with the methods that were utilized in determining Stream flow classification of Thames River Basin:

- 1) There are no roads depicted upon the PDF formatted Town of Colchester Map. Please see: Page 8 of 47
http://www.ct.gov/deep/lib/deep/water/watershed_management/flowstandards/thamespawcatucksecoast_sfc_mapswroads.pdf

Should the DEEP wish to have input from the public, they should at least be able to provide consistent correct mapping in which the public may orientate themselves with. Please provide the corrected mapping before the close out of public comment.

- 2) The DEEP's classification is flawed due to the disregard to compliance with the law passed that established 4 classifications of streams, yet the entire basin is limited to three classifications only.
 From the DEEP Website:

Stream flow Class	Stream Condition	Narrative Standard
1	Free Flowing Stream	Maintain stream flow and water levels to support and maintain habitat conditions supportive of an aquatic, biological community characteristic typically of free-flowing stream systems
2	Minimally Altered	Maintain stream flow and water levels to support and maintain habitat conditions supportive of an aquatic, biological community characteristic minimally altered from that of typically of free-flowing stream systems
3	Moderately Altered	Maintain stream flow and water levels to support and maintain habitat conditions supportive of an aquatic,

4

Altered

biological community
characteristic moderately
altered from that of
typically of free-flowing
stream systems
Exhibit substantially altered
stream flow conditions
caused by human activities
to provide for societal needs

Clearly, when the Classification 4 so clear a concept, with such known improvements and the significant number of Dams that have been placed for Flood Control (Mansfield Hollow) and for Hydro-electric power (Greenville Dam), and say that these will be considered on a case by case basis, shows either an unwillingness to recognize the “societal need” or accept that such need even exists. There is a clear difference between the terms “May exhibit substantially altered stream flow conditions....” As defined in Class 4 and “Shall exhibit ,at all times, the depth, volume, velocity and variation of stream flow and water levels necessary to support and maintain habitat conditions supportive of an aquatic,....” As defined in Class 3. Societal need is clearly defined by the regulation.

Class 4 streams “ may allow altered stream flow conditions caused by human activity to provide for the needs and requirements of public health and safety, flood control, industry, public utilities, water supply, agriculture and other lawful uses; and shall, while giving consideration to societal needs, economic costs, and environmental impacts, exhibit to the maximum extent practicable the depth, volume, velocity and variation of stream flow and water levels consistent with the narrative standard for Class 3 river and stream segments. ”

The issues are: Public Health and Safety – Diversion of Water for Fire Emergency Protection is exempted from the Stream flow regulations, however located directly downstream from the dam that provides the fire protection pond for a portion of Town (example McDonald Road, Colchester CT;The Dam exists, The Pond contain over 15 acre-ft of water, Its streams are listed as Class 1, its listed a having wild brook trout (privately stocked?)). It’s clear that no field investigation occurred. Are ponds that supply fire suppression water supplies public safety or not? The department has to recognize that not all fire fighting water comes from hydrants. Where the creation of new fire fighting water sources are to be created in rural areas, are they exempted as defined by regulation? Was that data even evaluated?

Flood Control: Automatic 3 should be Class 4 where the Mansfield Hollow Flood Control project is concerned....if the classifier has any knowledge of Connecticut Historical Data and the economic impact. What’s more confusing is where there is a “Magic Point” in the Shetucket River where the “Automatic Class 3” reverts to a Class 1 stream. Was this the location where all flood control benefits, downstream damage or just simply the limit of the Federal Project study ended? What will be the method of analysis be when the mapping occurs within the Connecticut River Basin? Is the classifier even aware of the special legislation that created the Greater Hartford Flood Commission, the Army Corp of Engineering Projects, vast Flood Control projects and the hundreds of millions of dollars spent. When discussion of economic impact arises; have the damages due to the Flood of 1929, 1936, Hurricane of 1938 or 1955 with its Flood Control responses...or more recent

Flooding in 2010 that received Presidential and FEMA declarations, been considered or just ignored.

Just what level is economic impact considered? When the defined level is “Economic impact that would substantially impair or otherwise detrimentally affect the economy of the community in which the segment is located or of the state”; the public is aware that this is the same language that is utilized to apply for and acquire Presidential Declarations. The State cannot on one hand say events would cause undue hardship and economic impact if a declaration is not granted, and it own Agency ignore the same level economic impact when Classifying the same streams.

Public Utilities - Does the DEEP not know where Public Utilities are in regard to streams? Why are these not classified into the Class per the adopted regulation?

Water Supply – The Water Supply plan information that the DEEP is utilizing in cases is years out of date considering that there are Water Utilities that have been waiting years in order to have their most recently submitted Water Supply plans commented upon and approved.

The following statement by DEEP within the Streamflow Classification document is in conflict with the regulation, especially where such existing streams that conform to those Class 4 Stream guidelines already exist:

“This process will provide all stream segments throughout the state with a class of 1, 2, or 3 designation. CTDEEP is not initially proposing any Class 4 designations; as such designation requires specific information on societal needs, economic costs and environmental impacts that will be considered on a case by case basis.”

The reference in the above statement to “case by case basis” is specifically covered under the “petition to change the classification” portion of the regulations. It should not be utilized to ignore what already exists.

On the final pages under “Statement of Purpose” of the regulations: Section 26-141b-4 – Narrative standards. .. “In Class 4 waters, priority is given to human uses while flows are consistent with the narrative standard with Class 3 waters to the maximum extent practicable.”

By Failing to Classify any Stream section a Class 4, the DEEP is in not willing to admit that there exists streams that have been altered with human uses being the priority. This is not in keeping with the regulation as written and adopted.

- 3) In the determination of Hydrologic Stressor index (HIS) number 4, “Size and Location of dams, reservoirs and other impoundments within the watershed.” The arbitrary limiting use of only “Large dams” that are 15 ft in height or having a storage capacity greater than or equal to 15 acre-feet is not consistent with the definition of term “Dam” as defined by the Regulation and skews the classification incorrectly. No attempt is made by the classifier to comply with the definition and the adopted regulation:

(NEW) **Sec. 26-141b-2. Definitions.** As used in sections 26-141b-1 to 26-141b-8, inclusive, of the Regulations of Connecticut State Agencies:

(16) "Dam" means "dam", as defined in section 22a-409-1 of the Regulations of Connecticut State Agencies;

Section 22a-409-1. Registration of dams and similar structures.

(a) Definitions. AS USED IN SECTION 22A-409-1 and 22A-409-2:

(7) "Dam" means any barrier of any kind whatsoever which is capable of impounding or controlling the flow of water, including but not limited to storm water retention or detention dams,

flood control structures, dikes, and incompletely breached dams.

(NEW) **Sec. 26-141b-5. Adoption of river or stream system classifications.**

(a) The commissioner, after consultation with the Commissioner of Public Health, shall prepare a map of proposed classifications indicative of the degree of human alteration of natural stream flow after consideration of the following factors:

(4) Size and location of dams, reservoirs and other impoundments within the watershed, to the extent that these dams, reservoirs and other impoundments may affect the physical characteristics of flow, volume or velocity of water in the stream channel or may alter the daily, seasonal or inter-annual flow characteristics of the river or stream system;

One cannot determine if the daily flow characteristics are altered, unless the evaluation of all dams within a watershed occurs.

It should be noted that The Town of Colchester does not utilize surface impoundments or dams for its Public Water Supply, which is located within the Connecticut River Watershed Basin. However there are dams not owned by the Town in adjacent stream sections that would be ignored based upon the present means that DEEP has analyzed dams and impoundments. The Town has concerns that if the same methodology is utilized for subsequent basin mapping, the inappropriate Classification will be placed upon streams within the aquifer that the system draws upon.

The Town wishes to have the Public Comment portion of the Regulations extended until such reasonable period of time following :

- 1) corrected information is provided to the Town listed in Item #1,
- 2) adherence to the adopted regulation occurs within Item #2 and revised mapping provided in accordance with the adopted regulation, and
- 3) that the data of the datasets utilized be defined to include all those structures and dams in accordance with the adopted regulations written definitions.

James Paggioli, L.S.

Director of Public Works
Town of Colchester